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ABSTRACT

In these three congressional hearings on pay equity, focuses are on two bills--the Federal Pay Equity Act of 1984, which would examine wage discrimination within the Federal civil service system, and the Pay Equity Act of 1984, which would mandate the Equal Employment Opportunity Commission to report regularly on activities to enforce pay equity laws. Testimony includes statements from Representatives in Congress; State representatives of the State of Minnesota; State Senators; the governor of Ohio; and individuals representing the United States Office of Personnel Management; American Federation of Government Employees; AFL-CIO; National Federation of Federal Employees; National Association of Government Employees; Women's Equity Action League; American Nurses Association; National Organization for Women; Department of Employee Relations, Minnesota; Department of Economic Security, Minnesota; AFSCME/Minnesota; Minnesota Nurses Association; Minnesota Business and Professional Women; League of Women Voters, Minnesota; Awareness Council; Minnesota Citizens Legislative League; Women for Responsible Legislation; Women for Reagan; and Minnesota School Employees Association. (YLB)

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FEDERAL PAY EQUITY ACT OF 1984

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PART 2

HEARINGS

BEFORE THE

SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON POST OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 4599

A BILL TO PROMOTE PAY EQUITY AND ELIMINATE CERTAIN WAGE-SETTING PRACTICES WITHIN THE FEDERAL CIVIL SERVICE SYSTEM WHICH DISCRIMINATE ON THE BASIS OF SEX, RACE, OR ETHNICITY AND RESULT IN DISCRIMINATORY WAGE DIFFERENTIALS

H.R. 5092

A BILL TO REQUIRE PERIODIC, DETAILED REPORTS TO THE PRESIDENT AND THE CONGRESS BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, THE SECRETARY OF LABOR, AND THE ATTORNEY GENERAL DESCRIBING ACTIONS TAKEN TO ENFORCE FEDERAL LAWS PROHIBITING DISCRIMINATION IN COMPENSATION ON THE BASIS OF SEX, RACE, RELIGION, COLOR, OR NATIONAL ORIGIN AND TO REAFFIRM THE PROVISIONS IN FEDERAL LAW WHICH DECLARE THAT EQUAL PAY SHOULD BE PROVIDED FOR WORK OF EQUAL VALUE

MAY 30, JULY 17, OCTOBER 18, 1984

Serial No. 98–30

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FEDERAL PAY EQUITY ACT OF 1984

WEDNESDAY, MAY 30, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION
AND EMPLOYEE BENEFITS,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:37 a.m., in room 311, Cannon House Office Building, Hon. Mary Rose Oakar presiding.

Ms. OAKAR. The Subcommittee on Compensation and Employee Benefits will come to order.

The Chair will ask unanimous consent that members be given as much time as they need to question the witnesses. Without objection that will be the point of departure from which the Chair will operate.

I have convened this subcommittee this morning to hear testimony on the circumstances surrounding the May 14, 1984, memorandum from Mr. James Byrnes, Deputy Associate Director for Staffing, to Dr. Devine, Director of the Office of Personnel Management and the activities of the OPM subsequent to this date regarding the pay equity legislation that I introduced several months ago.

Needless to say, I was shocked and dismayed to learn of the memorandum from Mr. Byrnes. It has been my hope that through the enactment of H.R. 5680, OPM, in conjunction with the Federal unions and the women's groups, would conduct a thorough and objective evaluation of the current Federal job classification and pay programs to determine their compliance with pay equity principles which have not been looked at since 1923.

I am firmly convinced that such a study is imperative and that the Nation's largest employer, the Federal Government, owes a responsibility to its work force to make certain that the current personnel program is free from sex-based wage discrimination.

Unfortunately it appears that rather than preparing for the comprehensive review required by my legislation, the OPM has embarked upon a course that could lead to the manipulation of the pay and classification system for political purposes. To quote from the memorandum from Mr. Byrnes which, without objection, I will submit in full for the record. "If the Oakar bill passes," says Mr. Byrnes, "it would be a tremendous opportunity for OPM to develop a real," underline real, "comparable worth system and show how preposterous it would be."

(1)

"The political possibilities of this situation should not be underestimated.

"A comparable worth study," the memorandum goes on, "would immediately divide the white-collar and blue-collar unions. This would not be limited to those in the Government although there are a large variety there who also represent outside interests, but it would also directly affect the private sector unions.

"Since our occupational standards are often applied outside Government, private sector unions could not afford to let the Government go too far. The blue-collar craft unions would especially be concerned, since they would be the inevitable losers in such a comparable worth adjustment process. Moreover, the unions would be pitted against the radical feminist groups and would further divide this constituency of the left."

The memorandum then ends with the statement that "Rather than allowing Oakar to manipulate the administration on the gender issue, we could create disorder within the Democratic House pitting union against union and both against radical feminist groups.

"This situation presents opportunities that we should not ignore. Of course, it is a dangerous course, but it might change the nature of the whole debate on comparable worth."

[The memorandum from Mr. Byrnes follows:]

United States Government
MEMORANDUM

Office of Personnel Management

Subject: Pay Equity Bill

Date: 14 MAY 19[illegible]
In Reply Refer To

From: James L. Byrnes
Deputy Associate Director
for Staffing

Your Reference

To: Donald J. Devine
Director

In reviewing our options on standards setting and job evaluation, it occurred to me that we have not adequately investigated one option. This is especially pertinent now since Bob Moffit tells me there is good chance the House might pass Representative Oakar's Pay Equity Bill.

We know that a "comparable worth" system will not work. We do know, however, that job evaluation systems can be biased to produce the results favored by proponents of comparable worth, i.e., equal wages for male and female occupations. I recently referred to you an article which showed how certain standards could be manipulated so that any job evaluation technique could have male and female dominated occupations paid equally.

If the Oakar Bill passes, it would be a tremendous opportunity for OPM to develop a real comparable worth system, and show how preposterous it would be. The Federal Government's classification systems--which OPM has tried to change for years--are confusing and inefficient in any event, so a little more irrationality wouldn't hurt that much. But it would show a clear picture to the private sector about how ridiculous the concept of comparable worth is, and that in fact it is only job discrimination. It is truly wage-setting by administrative fiat. Only in this case, it would be under your control.

The political possibilities of this situation should not be underestimated. By doing job evaluation across clerical and blue collar occupations, a comparable worth study would immediately divide the white collar and blue collar unions. This would not be limited to those in the Government, although there are a large variety there who also represent outside interests, but it would also directly affect the private sector unions. Since our occupational standards are often applied outside Government, private sector unions could not afford to let the Government go too far. The blue collar craft unions would especially be concerned, since they would be the inevitable losers in such a comparable worth adjustment process. Moreover, the unions would be pitted against the radical feminist groups and would further divide this constituency of the left. Rather than allowing Oakar to manipulate the Administration on the gender issue, we could create disorder within the Democratic House pitting union against union and both against radical feminist groups.

This situation presents opportunities that we should not ignore. Of course, it is a dangerous course, but it might change the nature of the whole debate on comparable worth.

Ms. OAKAR. "Appalling" is the only word that I can use to describe this memorandum. It is outrageous for any administration official to consider such underhanded activities. It is even more outrageous that the same individual is responsible for the current so-called in-house review by OPM of the entire Federal classification program including, we are told, an examination of bias in the system.

Certainly given the tone and the political nature of this memorandum, my trust and my faith in the objectivity of this study have been shaken.

To make matters even worse, however, it appears that Dr. Devine took the first step in implementing this memorandum on May 22, 1 day before the Post Office and Civil Service Committee was scheduled to mark up the Pay Equity bill.

It seems that Dr. Devine called a meeting with representatives of labor unions in the public and private sector to paint a grim picture of the impact of my pay equity bill on their membership. Certainly it would be impossible to ignore the timing of this meeting, the subject matter that was discussed, and the clear implication that pay equity would mean a loss of wages for blue-collar workers.

In this regard, I am also submitting for the record without objection two articles that appeared in the May 23 issue of the Washington Post concerning the Byrnes memorandum and the article by Mr. Causey concerning the meeting with the unions. I understand it is a very accurate account of what took place.

[The aforementioned articles follow:]

'Comparable Worth'

OPM Weighs Escalation Of War Between Sexes

By Cass Peterson
Washington Post Staff Writer

A high-ranking official at the Office of Personnel Management has a plan for turning the issue of "comparable worth" to the Reagan administration's political advantage by "pitting union against union and both against radical feminist groups."

James L. Byrnes, a deputy associate director at OPM, laid out the strategy last week in a memo to OPM Director Donald J. Devine, warning that "there is a good chance" the House will pass legislation requiring equal pay for government jobs of comparable value.

If the so-called "pay equity" bill passes, Byrnes wrote, "it would be a tremendous opportunity for OPM to develop a *real* comparable worth system, and show how preposterous it would be."

Byrnes refers to a bill, sponsored by Rep. Mary Rose Oakar (D-Ohio), that would require OPM to identify and correct any pay discrepancies between female-dominated and male-dominated government jobs.

Oakar's measure was prompted by a federal judge's ruling last November that 15,000 women working for the state of Washington were systematically underpaid for jobs that required the same levels of skill and responsibility as job classifications filled predominately by men.

"The political possibilities of this situation should not be underestimated," Byrnes wrote. ". . . Rather than allowing Oakar to manipulate the administration on the gender issue, we could create disorder within the Democratic House pitting union against union and both against radical feminist groups."

Patrick Korten, an aide to Devine, said the OPM director had just looked at the May 14 memo "and we're not going to have any comment on it."

"The general thrust is to suggest that we somehow endorse the pay equity bill when in fact our strong inclination is to oppose it," Korten said.

However, Byrnes' memo suggests that the OPM already has been considering the pay equity question in the context of its overall job-reclassification program.

"We know that a 'comparable worth' system will not work," the memo stated. "We do know, however, that job evaluation systems can be biased to produce the results favored by proponents of comparable worth, i.e., equal wages for male and female occupations."

Byrnes added: "I recently referred to you an article which showed how certain standards could be manipulated so that any job evaluation technique could have male- and female-dominated occupations paid equally."

Byrnes, a onetime aide to former senator Richard S. Schweiker (R-Pa.) who worked under Schweiker at the Health and Human Services Department until moving to the OPM last year, did not return phone calls.

But according to his memo, a comparable-worth study of the sort envisioned by Oakar "would immediately divide the white-collar and blue-collar unions," both inside and outside the government.

Blue-collar craft unions would be particularly concerned, Byrnes said, "since they would be the inevitable losers . . . . Moreover, the unions would be pitted against the radical feminist groups and would further divide this constituency."

Oakar, however, said that her legislation would forbid salary cuts as a way of equalizing pay for comparable jobs. "We're not prejudging what the study will say," she said, "but in order to not allow this to be a confrontation between men and women, we put into the legislation that it cannot detract from anyone's salary."

Meanwhile, Oakar has a strategy that may make it more difficult for the administration to oppose the comparable-worth bill. In a committee markup today, Oakar said, she will attempt to blend her bill with two Senate-passed measures, including a restructuring of the merit pay system that OPM Director Devine has strongly supported.

Washington Post, Wednesday, June 23, 1984

MIKE CAUSEY

THE FEDERAL DIARY

Blue-Collar Unions Warned on Pay Equity Bill

Unions representing many of the government's half-million blue-collar workers were called to the Office of Personnel Management yesterday and warned that some of their members might suffer if a pay equity bill before the House is enacted into law.

The House Post Office-Civil Service Committee is expected to approve a merit pay plan today covering government supervisory personnel. That bill is tied to a measure, introduced by Rep. Mary Rose Oakar (D-Ohio), that would require the government to complete within seven months a study of its pay and classification system, to see if it discriminates against women.

Although women outnumber men two to one in government, most women are concentrated in the eight lowest pay grades. Most women are in white-collar (clerical, professional and administrative) jobs. Most blue-collar positions (electricians, carpenters and skilled crafts) are held by men. The two pay systems are very different.

At the OPM briefing, director Donald Devine and top aides explained that the Oakar bill could present "problems" for blue-collar workers.

"We got the message that he [Devine] felt he might be forced to combine the blue-collar and white-collar pay systems if the study is made and that our blue-collar people would be the losers," one union official said.

OPM originally invited four unions—the Metal Trades Council, the National Association of Government Employees Union, the Laborers International Union and the Teamsters—to the meeting. According to the Mailgrams they received, OPM wanted to discuss the possible "integration" of the pay systems.

But when other unions got wind of the meeting late Monday they complained, and eventually got invitations, too. Those added were the American Federation of Government Employees and the National Federation of Federal Employees.

"We walked in expecting to hear about some OPM pay integration plan, but were treated to a lecture, complete with slides, from Devine," said George Hobt, of the AFGE. "They kept talking about 'the bill.' It was some time before any of us understood he was talking about Oakar's pay equity bill."

An OPM spokesman said the purpose of the session "was not to say what we necessarily are or are not going to do . . . but to ask them if they knew what the Oakar bill would do.

"For example," he said, "it calls for a study. Sounds simple. But remember Washington State did a similar study. Somebody (the American Federation of State, County and Municipal Employees) took the study to court."

The study showed that many female-dominated jobs of "equal worth" paid less than male-dominated jobs. At a federal judge's order, Washington has had to make pay adjustments for those underpaid employes.

The OPM official said unions were also urged to consider "what kind of impact the Oakar bill would have on the blue-collar and white-collar wage systems." The latter, with 18 grades, "is a factor evaluation system where pay is based on job requirements, skills and experience. Only 2 percent of the job component is based on environmental factors" such as difficult, or dangerous working conditions, the official said.

"The blue-collar system," he said, is "loose, and is linked to 39 key jobs. It is not a very formal system, is based on local pay rates in the private sector.

"Take a sheet metal worker: messy working conditions . . . with pay based in part on comparison with the private sector. It could be considered 'unskilled' labor, but the sheet metal worker makes more than a secretary. We would be asked to compare apples and oranges" by the Oakar bill, he said.

A spokesman for Oakar's subcommittee said that while the OPM meeting came as a surprise, "all they did was raise all the traditional arguments against pay equity.

"OPM was not being truthful when it raised the specter of blue-collar workers being forced to take a pay cut," the spokesman said. "The Barnes language in the bill [introduced by Maryland Democrat Mike Barnes] specifically prohibits anybody's pay from being cut because of this legislation.

"What the OPM meeting tells us," the spokesman said, "is that Devine and the administration are scared of this bill and are looking for ways to try to get unions to oppose it by setting blue-collar against white-collar, and men against women."

Washington Post Wednesday, May 23, 1984

Ms. OAKAR. During hearings that the subcommittee conducted on my pay equity legislation in April, Phyllis Schafly of the Eagle Forum sought to create a division between women and blue-collar laborers by proclaiming that pay equity would inevitably result in wage reductions for blue-collar workers. This argument has been raised consistently by opponents to pay equity who have sought to deliberately pit men against women in order to sidetrack efforts to eliminate sex-based wage discrimination.

The fact of the matter is that I as author of the legislation, specifically inserted a provision in H.R. 5680 which would prohibit the reduction in pay for any position as a result of the Federal pay equity study. As I have said many times, it is not my intention, nor is it permissible under my bill, to reduce anyone's wages in order to correct sex-based discrimination in the Government. Obviously those who perpetuate that myth are deliberately lying or did not read the bill.

Let me read from the section on page 4, line 20, "except that nothing in this section shall be construed to authorize any action which would result in a reduction in the rate of pay payable for any position."

That is right from the bill.

Through its actions in the past few weeks, it has become obvious that the administration opposes a pay equity study. It is truly a shame that there are those who would seek to undermine such a study by playing politics with the entire Federal work force. We can all understand honest and forthright disagreements, but devious chicanery has no place in either the Congress or the administration.

It is certainly not with any pleasure or joy that I have called this hearing. It is imperative, however, to learn of the true circumstances surrounding the issuance of the memorandum and the other activities of the OPM regarding my bill.

Hopefully, this sad chapter in the history of this legislation will be concluded with this hearing and we can move toward the goal of examining Federal pay and classification system for sex-based wage discrimination in an open and honest atmosphere.

Today we are going to begin with testimony from Mr. James Byrnes, author of the memorandum. He is also in charge of the OPM so-called in-house study regarding pay equity and other issues. We will also hear from the unions who participated in the May 22 meeting and finally from Dr. Devine, who is in charge of the OPM.

The Chair has purposely invited Representative Pat Schroeder who was cochair of one of the earlier hearings. She is also Chair of another subcommittee with jurisdiction of matters regarding violation of the law. Because there is a question about that, I am delighted Congresswoman Schroeder was able to join the subcommittee this morning and I would like to call on her at this time.

Mrs. SCHROEDER. Thank you very, very much, and I want to congratulate Congresswoman Oakar for calling these hearings and for moving on this.

I am very proud to be a cosponsor of Congresswoman Oakar's bill, the Federal Pay Equity and Management Improvement Act. I think it is very important to point out what it does.

If anything, people may have thought it was too modest because basically what it does is require the executive branch to conduct a study and identify the extent of wage discrimination against women—discrimination which is obvious. We had very intensive hearings in the past which she has referred to and what really came across is that it is absolutely indisputable fact that Federal workers in jobs predominantly filled by women get paid less than Federal workers in jobs predominantly filled by men, even though many of those jobs have comparable levels of skills, knowledge and responsibility.

The Federal Government isn't unique in this, it is also happening in the private sector. What this bill requires is a study to figure out how to start eliminating this discrimination.

I find it shocking that Mr. Byrnes during work hours responded in such manner with this type of memo. He suggested intentionally distorting the results of the study to discredit those who were interested in ending discrimination. I think we have to ponder how we would feel if this were a black-white issue or Hispanic-white issue; somehow, since it is women it is somehow OK, they think they can go forward with this discrimination and it is fine.

I find it shocking that President Reagan is doing this and he opposes comparable wages to women performing comparable work. Rather than seeking to end discrimination it really appears they are now trying to figure out how to perpetuate it and do it by pitting all sorts of groups against each other. I find this a very, very unfortunate matter. I will be very interested to find out what people have to say for themselves and I am interested in how the taxpayers' money is being spent as they come up with these kinds of proposals to distort the intent of the law, to distort the thrust of what is going on, and to play hard ball politics.

Again, I thank you, Congresswoman Oakar, for allowing me to be here and listen to the testimony.

[The statement of Mrs. Schroeder follows:]

HONORABLE PATRICIA SCHROEDER
Chairwoman
Subcommittee on Civil Service
Committee on Post Office and Civil Service
122 Cannon HOB
Contact: Andrew A. Feinstein
(202) 225-4025

FOR IMMEDIATE RELEASE

May 30, 1984

SCHROEDER CASTIGATES REAGAN ADMINISTRATION

FOR OPPOSING EFFORTS TO END WAGE DISCRIMINATION AGAINST WOMEN

Rep. Pat Schroeder (D-Colorado) today blasted the Reagan Administration for opposing efforts to end sex discrimination against women in the salaries they are paid as Federal government workers. Schroeder made her statement at hearings held by the Subcommittee on Compensation and Employee Benefits of the Committee on Post Office and Civil Service, chaired by Rep. Mary Rose Oakar (D-Ohio).

"The indisputable fact is that Federal workers in jobs predominantly filled by women get paid far less that Federal workers in jobs predominantly filled by men, even though both jobs require comparable levels of skill, knowledge, and responsibility and even though both jobs contribute equal amounts to the benefit of the taxpayer," Rep. Schroeder said.

"So, Rep. Oakar and I introduced H.R. 5680, the Federal Pay Equity and Management Improvement Act, to require the executive branch to conduct a study and identify the extent of this obvious wage discrimination. The bill is a modest effort to ascertain the dimensions of this discrimination so that we can take responsible steps to redress it.

"Rather than working with us to end sex discrimination, the

Reagan Administration has gone wild trying to kill the bill. James Byrnes, the Deputy Associate Director for Staffing at the Office of Personnel Management (OPM) wrote a memo, on government time, to OPM Director Donald J. Devine suggesting that the bill be used to pit 'union against union and both against radical feminist groups.'

"Mr. Byrnes also suggested intentionally distorting the results of the study to discredit those who are interested in ending discrimination," Rep. Schroeder continued.

"While the Byrnes memo is an outrage, the really offensive thing about the memo is that it makes plain that the Reagan Administration opposes paying women wages comparable to those of men for performing comparable work. Rather than seeking to end sex discrimination, the Reagan Administration is seeking to perpetuate it," Rep. Schroeder said.

The pay equity legislation, H.R. 5680, is scheduled for consideration by the Committee on Post Office and Civil Service on May 31, 1984.

# # #

Ms. OAKAR. Thank you very much, Congresswoman. Mr. Bosco, do you have any remarks?

Mr. Bosco. I have no comments, thank you.

Ms. OAKAR. At this time we would like to hear from Mr. James Byrnes, Deputy Associate Director for Staffing of the U.S. Office of Personnel Management.

STATEMENT OF JAMES L. BYRNES, DEPUTY ASSOCIATE DIRECTOR FOR STAFFING, U.S. OFFICE OF PERSONNEL MANAGEMENT

Ms. OAKAR. As you know, Mr. Devine, you are scheduled after the unions, but we welcome you to the table as well.

Mr. DEVINE. Thank you very much, Madam Chairman.

Ms. OAKAR. I am going to call on Mr. Byrnes first. We don't have a prepared statement by you so you can proceed in any way you are most comfortable with.

Mr. BYRNES. I don't have an opening statement, Madam Chairwoman.

Ms. OAKAR. So we will proceed with questions.

Mr. Byrnes, will you state your name and title for the record?

Mr. BYRNES. My name is James L. Byrnes, I am Deputy Associate Director for Staffing, U.S. Office of Personnel Management.

Ms. OAKAR. Would you just pull the mike a little closer.

Thank you.

Would you try one more time.

Mr. BYRNES. James L. Byrnes, Deputy Associate Director for Staffing, U.S. Office of Personnel Management.

Ms. OAKAR. Mr. Byrnes, are you the author of the memorandum dated May 14, 1984, to Dr. Donald Devine titled "Subject, Pay Equity Bill"?

Mr. BYRNES. Yes, I am.

Ms. OAKAR. Mr. Byrnes, do you have a prepared statement to deal with this memorandum in any way?

Mr. BYRNES. No, I do not.

Ms. OAKAR. Would you describe for this subcommittee your educational background and the various positions you have occupied since graduating from college?

Mr. BYRNES. I graduated from Duquesne University, attended the Delaware Law School, Wilmington, Delaware. Since then I have been Executive Director of the Young Republican National Federation. I have been a member of the staff of Senator Richard Schweiker from Pennsylvania and a member of Secretary Schweiker's staff at the Department of Health and Human Services, and stayed there under Secretary Heckler for approximately 10 months before moving to the Office of Personnel Management first as Assistant Director for Planning and Evaluation, and then as Deputy Associate Director for Staffing.

Ms. OAKAR. How long have you worked for OPM?

Mr. BYRNES. Six months, approximately.

Ms. OAKAR. Do you consider yourself then a career Federal employee?

Mr. BYRNES. If you consider 5 years a career, I suppose so.

Ms. OAKAR. And what type of appointment are you under for your current position?

Mr. BYRNES. It is a noncareer SES appointment, Senior Executive Service.

Ms. OAKAR. Is this the same type of appointment you had when you were at the HHS?

Mr. BYRNES. No, when I entered the Department of Health and Human Services I was a schedule C appointee.

Ms. OAKAR. Would you describe the various duties of your current position with OPM?

Mr. BYRNES. Well, they are very wideranging. The Staffing Group handles most of the operative sections of the merit system. It includes managing merit selection, testing, and providing agencies with a list of people to hire for merit positions in the Government. Likewise it also includes analysis of the policies and procedures behind the staffing system in the Federal Government.

Ms. OAKAR. So when they say that you deal with staffing you are making those recommendations, is that right?

Mr. BYRNES. That is correct.

Ms. OAKAR. Do you believe that offering political advice and developing political strategy is part of your responsibilities?

Mr. BYRNES. I believe that part of my job is to offer options to the Director from which to make proper policy decisions.

Ms. OAKAR. Do you believe they should include political options?

Mr. BYRNES. I believe the Director has to have options to deal with any circumstance he would face, certainly political options.

Ms. OAKAR. Who directed you to become involved in the political strategy of this memorandum?

Mr. BYRNES. The memorandum itself, the Director asked me to prepare it. He was asking for an imaginative memorandum looking at an option and asked me basically to think as though I was a liberal Democrat looking at the type of thought that a liberal Democrat would view OPM as having in supporting the——

Ms. OAKAR. So the Director asked you to think in political terms, in other words?

Mr. BYRNES. He asked me to think as though I was——

Ms. OAKAR. A liberal Democrat.

Mr. BYRNES. A liberal Democrat offering reasons why OPM would support H.R. 4599.

Ms. OAKAR. I see. But he didn't ask you to think as a female would think or anyone without a political philosophy? It was a liberal Democrat, is that right?

Mr. BYRNES. That is right.

Ms. OAKAR. Who do you report directly to in OPM?

Mr. BYRNES. The Associate Director for Staffing.

Ms. OAKAR. Who is that, please?

Mr. BYRNES. Mr. Richard Post.

Ms. OAKAR. Was he aware of your memorandum?

Mr. BYRNES. I don't believe so.

Ms. OAKAR. Do you usually go above your direct supervisor?

Mr. BYRNES. Well, at one point I thought I had mentioned to my secretary she should send a copy to Post and I wasn't sure whether she knew it was Dick Post or the Washington Post. Certainly it ended up there.

Ms. OAKAR. I see. OK. Unbelievable.

Mrs. SCHROEDER. Keep a straight face.

Ms. OAKAR. Have you in the past written other memoranda and written to Dr. Devine concerning the use of OPM programs and responsibilities for the implementation of political strategy?

Mr. BYRNES. No, I have written many option memos to the Director offering him policy options to be selected for the operation of the Office of Personnel Management. Being it is a branch of the Government, oftentimes governmental policy for some reason seems to have political overtones, but that is not a situation that I created.

Ms. OAKAR. Do you think your memorandum has political overtones?

Mr. BYRNES. I think it has policy options in it that of course affect governmental policy. So to that degree, yes.

Ms. OAKAR. Talking about manipulating a Democratic House, do you think that involves political overtones?

Mr. BYRNES. I believe I said rather than allowing the administration to be manipulated, this would cause some confusion within the Democratic House. I notice that the memorandum has a capital H, I believe it should have been a small H.

Ms. OAKAR. You believe what? I am sorry, small "h" for what?

Mr. BYRNES. In terms of Democratic House.

Ms. OAKAR. And the memorandum has a capital "H"?

Mr. BYRNES. I believe so.

Ms. OAKAR. Whose fault is that? Your secretary?

Mr. BYRNES. It could have been mine, it might have been my secretary's.

Ms. OAKAR. Did you proofread your memorandum?

Mr. BYRNES. Yes, I am not the most exceptional proofreader and even those of us at OPM occasionally make mistakes.

Ms. OAKAR. I see.

Are you, Mr. Byrnes, the individual responsible for coordinating and administrating the current OPM study of the standards process that Dr. Devine announced in his testimony before this subcommittee on April 3, 1984, when we were having the first in a series of hearings concerning pay equity?

Mr. BYRNES. Yes.

Ms. OAKAR. Would you describe your background or expertise in standards development and classification or pay systems? Now you have worked here 6 months. Do you think there is anything in your background that promotes your skills with respect to developing these kinds of standards?

Mr. BYRNES. Well, if I was an expert in personnel I would probably be a personnel specialist working at OPM. As a member of the Senior Executive Service my job is to provide general management skills over people who are specialists and that is what we try to do.

Ms. OAKAR. But you yourself are responsible for coordinating this and administering this study?

Mr. BYRNES. That is correct.

Ms. OAKAR. And you consider yourself an expert on this issue?

Mr. BYRNES. As I said, my job is to provide general management of the study. If I was an expert I would be in a different job in OPM.

Ms. OAKAR. I see.

So you don't consider yourself an expert?

Mr. BYRNES. I don't consider myelf an expert in the minutia of standards development or staffing, no.

Ms. OAKAR. Are you an expert in political strategy?

Mr. BYRNES. Not particularly. I guess I would be in Congress if I was an expert in that.

Ms. OAKAR. On April 18, 1984, you agreed to provide this subcommittee with a copy of your memorandum initiating the in-house study and the memorandum from Dr. Devine approving this study. That was on April 18. Do you recall that meeting?

Mr. BYRNES. I do recall the meeting, yes.

Ms. OAKAR. To date, however, and despite additional requests from my staff this memoranda has not been furnished to the subcommittee and I am now again formally requesting that they be delivered to the subcommittee by 5 p.m. today. Do you think you can do that?

Mr. BYRNES. As I recall the meeting, your staff asked for a fair amount of paper much of which doesn't exist but I will be more than happy to provide anything that does exist.

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Ms. OAKAR. Well, what my staff asked you for and what they have repeatedly asked you for under my direction, was for you to supply us with a copy of your memorandum initiating the in-house study, specifically the memorandum from Dr. Devine approving the study. You said you could do that but we have been waiting for well over a month for those memoranda.

Mr. BYRNES. If that is the particular memorandum that you want I am sure we can provide that.

Ms. OAKAR. By 5 o'clock today?

Mr. BYRNES. I think we can do that.

Ms. OAKAR. It has only been 6 weeks or so since we asked. OK?

[The information follows:]

ACTION SUMMARY

FEB 17 1984

Subject: Standards and Job Evaluation Policy

From: James L. Byrnes, Assistant Director for Planning and Evaluation

To: Donald J. Devine
Director

BACKGROUND:

I. CURRENT POLICY--FAIR JOB EVALUATION

- Fair job evaluation, although relying on judgment, is a relatively objective method of describing levels of difficulty of work, independently of any cultural (including sexual) criteria. Yet, FES does rely to some extent on market forces.

- As the National Academy of Sciences study concluded, there are no definitive tests of fairness of factors and weights used in job evaluation. Any job evaluation system has to take into account market values. (However, comparable worth advocates claim that reliance on market rates perpetuates exisiting pay inequities.)

- Comparable worth discussions center around the existence of sex discrimination without providing information on how to resolve the problem.

- OPM stresses eliminating barriers to entry through credentialing and other means in order to increase equality of opportunity and prevent setting of artificially high salary rates.

II. LEGAL BASIS FOR FACTOR EVALUATION SYSTEM (FES)

- OPM's current standards development process rests on merit principles:
  - #2--fair and equitable treatment of all employees and applicants;
  - #3--equal pay for work of equal value "with appropriate consideration of both national and local rates paid by employers in the private sector and appropriate incentives and recognition...provided for excellence in performance".

- Section 5101 of title 5 on the classification plan states that in determining basic pay rates:
  1. "the principle of equal pay for substantially equal work will be followed;" and
  2. "variations in rates of basic pay paid to different employees will be in proportion to substantial differences in the difficulty, responsibility, and qualification requirements of the work performed and to the contributions of employees to efficiency and economy in the service."

- Section 5105 states OPM's obligation to consult with agencies in the preparation of standards and to place positions in their proper categories, but gives OPM complete authority to issue standards as it sees proper under the law.

- Published standards shall: 1) define classes of positions in terms of duties, responsibilities, and qualification requirements; 2) establish official class title; 3) set forth grade.

- Section 5104 defines levels of duties/responsibilities for GS grades 1-18.

- FES was implemented in 1975 in response to the Job Evaluation Policy Act of 1970. It was evaluated in a report to the President (A Federal Position Classification System for the 1980's) in April 1981 by the Classification Task Force.

III. FACTUAL ISSUES

- Comparable worth principle stresses equal outcome, not equal opportunity. (Market will automatically determine comparable worth of jobs once barriers to entry and vestiges of dual labor market are eliminated.) Comparable worth advocates claim that equal opportunity efforts (appropriate training and promotion opportunities) to raise relative average earnings of women are working too slowly, therefore more dramatic means are required. But is this true? Census data show:

  > Women employed as managers and administrators (non-farm) increased from 1.0 million in 1970 to 2.6 million in 1979.

  > Between 1970 and 1979, the percent of craft workers and service workers (excluding private households) who were women remained about the same, while during the same period, there were significant increases in certain professional and managerial occupations: the percent of managers who were female increased from 16 to 24.4; the percent of lawyers and judges who were female increased from 4.8 to 12.8.

- Various studies on the earnings gap between men and women claim that the portion of gap attributable to discrimination (rather than work or productivity factors) ranges from between 12% to 70%. However, none of these studies include all relevant factors: differences in employee characteristics, differences in employers and industries, differences in employee work behaviors, differences in work content, differences in labor market conditions, differences in union membership, and discrimination. (Omissions are due to lack of adequate, publicly available data and poor proxies.)

- Principle of comparable worth implies: 1) bias-free job evaluation can be developed by organizations; and 2) external market rates should not influence internal parity because these rates reflect discriminatory practices. This assumes that "fair" wages can be objectively determined and, thus, that "social justice" would be carried out through the imposition of such "fair" wages. The aim of advocates appears to be administrative wage control nationwide.

  > The main example we have of a federal wage control body is the National War Labor Board (generally not known for being a major success). Comparable worth advocates cite the Board as supporting the comparable worth concept; however, the current concept differs from the principle used by Board. The Board issued a General Order which allowed employers to "equalize the wage or salary rates paid to females with the rates paid to males for comparable quality and quantity of work on the same or similar operations." Nearly all dispute cases involving pay equity concerned whether a woman was paid less than a man for performing the same job.

  > Legislative endeavor in similar area — setting a minimum wage — has resulted in increased unemployment.

  Consequences of comparable worth policy will be to further increase unemployment, especially of women, as firms substitute capital for labor, as firms employing large proportion of (comparable worth-)affected employees go out of business, etc.

- Major studies concerning the comparable worth issue include:

  > "Sex Discrimination?—The XYZ Affair" in Public Interest, Winter 1981, Hoffman and Reed: A Fortune 500 company, faced with a sex discrimination suit, hired Hoffman Research Associates to study its personnel practices. The firm's management was sure employees were treated fairly, but could not explain apparent discrimination in promotion rates. Through interviews with employees and supervisors, consultant found that difference in promotion rates reflected differences in behaviors and attitudes of male and female employees (e.g., female employees expressing interest in promotion were as likely as male employees expressing such an interest to be promoted). Firm won law suit.

  > National Academy of Sciences, contracted by EEOC, conducted a comparable worth study and concluded that job evaluation systems and the marketplace are biased in favor of men. The report concluded that "women are systematically underpaid", and that the comparable worth issue "merits consideration".

> Ernest McCormick filed a minority report to NAS study, claiming that the study took "issue with the principle that prevailing rates of pay in the labor market should serve as the primary basis for the establishment of pay scales for jobs in specific situations...To ignore the [market] value system because it does not produce results that fit certain preconceptions of job worth (whether for or against any class) reflects... a biased frame of reference."

> State of Washington classification study used factor point analysis of job content (knowledge & skills, mental demands, accountability, and working conditions) to establish comparable worth. 121 sex-dominated classifications were studied; on average, for jobs rated equally, those held primarily by men were paid 20% more than those dominated by women. (The state's pay rates had been set according to area market surveys.)

> Business Intelligence Program, SRI International, estimates that total cost of eliminating that part of the wage gap probably due to discrimination would be $90 billion in 1980 dollars. (Assumes 50% of wage gap due to discriminatory practices based on various studies which attempt to explain gap.)

IV. SIGNIFICANT COURT DECISIONS

* Christensen v. University of Northern Iowa, 563 F 2d 353 (1977). The University determined that its female clerical employees were paid less than its potentially equally valued male physical plant workers. The University instituted a salary scale based on an equal value job evaluation plan. These pay rates were sufficient to attract clerical workers but not physical plant employees. The University then raised pay rates for the men, but not the women. The Court found for the University and stated that Title VII didn't abrogate the laws of supply and demand and that value was only one of many factors affecting wages.

* Lemons v. Denver, 22 FED Cases 959 (1978). Denver City Hospital nurses were paid based on a salary schedule that essentially followed the market; no attention was paid to internal job evaluation equity with other city jobs. The plaintiff nurses offered the Court their own job evaluation system which the court rejected saying there was nothing in the law that required job comparison. The decision was based on the pre-Gunther interpretation of the Bennett Amendment that if a pay practice did not violate the EPA, it cannot be heard under Title VII.

* County of Washington v. Gunther, 452 U.S. 161 (1981). The County of Washington, Oregon paid female jail guards about 70% of the salary paid male guards. The Supreme Court decision concerns itself with the Bennett Amendment, however it determined that while the jobs of male vs. female guards were different, the County's own pay survey found only a 5% pay differential between the two jobs. The court has ordered a retrial at the district court level.

The 5 to 4 majority's decision (Mr. Brennan's) ;.ayed down comparable worth, however, it relied on the fact that the County did not act according to its own pay survey.

- The courts have refused to become involved in making a value judgment concerning job evaluation plans themselves. However, once an employer undertakes such an enterprise, if he does not follow its findings he does so at his own peril.

- The Federal Government Factor Evaluation System has been found to be a bona-fide job evaluation system (Cayce v. Adams 16 FED Cases 547, 1977), however, the court indicated it must be applied in a bona-fide manner.

- Courts may in the near future compare one job evaluation system to another (Taylor v. Charley Brothers 22 FED Cases 602, 1981). This could present a danger to FES if SCR 83 (Senator Evans' Bill) were successfully implemented and resulted in a system significantly different from FES.

V. HISTORY OF WASHINGTON STATE CASE

- Washington civil service salaries have been set based on market rates.

- In 1973, top management positions had been evaluated to bring salaries closer to market rates; sizable pay increases resulted.

- State Women's Council saw potential in evaluating female-dominated jobs as compared with male-dominated jobs, and in 1974, Governor Evans requested comparable worth study. The study was updated in 1976 and 1979.

- Legislature did not accept study results; Evans requested $7 million for partial implementation, but was i- red by legislature. Ray campaigned supporting implementation, but when in office, removed item from budget.

- In September 1981, AFSCME filed EEOC complaint charging that the State violated Title VII of the Civil Rights Act of 1964 by not correcting disparate impact on female employees.

- 1983 law was passed to implement the comparable worth system over a 10 year period.

- September 1983, U.S. District Court Judge Jack Tanner ruled State had violated federal law. Back pay award for the 15,000 affected must be calculated from September 1979; current salaries for workers in predominantly female jobs will be raised by about $225 million; total award will be about $1 billion.

VI. GOVERNMENT AND INTEREST GROUP INVOLVEMENT

- GAO is currently working on a comparable worth study which will not be completed until August 1984. (It has conducted no other studies to date.)

- EEOC in 1977 contracted with the National Academy of Sciences to study whether a system to evaluate comparable worth is feasible or desirable; report published in 1981 supported comparable worth (i.e., this approach "merits consideration"). In 1980, the EEOC held hearings on pay equity as a preliminary step to writing a formal policy statement (not yet issued). Groups arguing on the comparable worth question included:

PRO	CON
Women's Legal Defense Fund	Business Roundtable
American Nurses Association	U.S. Chamber of Commerce
Women Employed	National Association of Manufacturers
National Commission on Working Women	
DOL	
AFSCME	
International Union of Electrical Workers	
Coalition of Labor Union Women	
National Association of Office Workers	
Communications Workers (CWA)	

- Office of Federal Contract Compliance Programs, DOL under the Carter Administration tried to implement the comparable worth principle in its affirmative action regs for federal contractors. The regs were to become effective 1-20-81, but were stopped by the Reagan Administration. Revised regs with the comparable worth section dropped were issued 8-26-81.

- National Committee on Pay Equity (coalition of civil rights and union groups, formed 1979) cites "need for new approaches to ending the historic earnings gap between men and women, minorities and whites." Their strategy for closing this gap is the concept of equal pay for comparable work. Major activity thus far has been a national conference held in 1979.

- Equal Employment Advisory Council (with a grant from the Business Roundtable) prepared a study to respond to the NAS report; it argues against comparable worth. The study concludes that compensation must be based on a combination of market rates and job evaluation; reliance on other techniques to measure job worth will produce arbitrary results and have undesirable consequences. The preferred alternative to comparable worth is the accelerated promotion of women.

- States: 14 states now have comparable worth laws (Alaska, Arkansas, Georgia, Idaho, Kentucky, Maine, Maryland, Massachusetts, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, and West Virginia). We are investigating whether these are comparable worth or just fair job evaluation bills.

* Unions and women's groups are presently concentrating on state and local governmental pay systems. Court cases presently pending in states of Connecticut and Wisconsin and cities of Los Angeles, Chicago, and Philadelphia. (AFSCME has filed EEOC complaints against Washington, Connecticut, and Los Angeles; it also bargained successfully with the city of San Jose (following city workers' strike) for comparable worth increases.)

OPTIONS:

1. Establish a full-fledged comparable worth-FES system--Assuming a study of the FES indicates we do not have a comparable worth system, OPM could attempt to create and implement one.

Advantages

* Would please women's groups and unions.

Disadvantages

* System would be arbitrary--no way to truly determine worth without using the market.

* Would increase the misalignment of Federal salaries in comparison with the private sector.

* Would facilitate application of comparable worth across the national economy.

* Costs to the supposed beneficiaries would likely outweigh benefits.

2. Maintain the status quo--Make no changes in FES or pay-setting system. Argue that OPM essentially has a comparable worth system; our system is similar to the Hay and Willis systems which have been used in comparable worth cases. (Comparable worth advocates may argue with the results of our system. If we choose this option, we should be able to respond to arguments like those raised by Lynne Revo-Cohen of FEW in her article "Comparable Worth in the Federal Government--Challenge or Threat"--if the government's pay-setting system is less discriminatory than most others, the government should provide affirmative answers to the following questions: 1) Has the FES ever been evaluated for sex bias?; 2) Are female federal employees better off post-FES than pre-FES?; 3) Are women in the federal government better off than women in the private sector? We are starting to gather data to answer these questions.

Advantages

* Least cost in short run.

Disadvantages

- Present FES is a comparable worth system that does not produce the "bottom line" results desired by comparable worth advocates.
- Potentially very costly in long run:
  - > OPM would be put on the defensive when comparable worth advocates question validity of FES and pay-setting system.
  - > We move no closer to relying on most objective and efficient means of determining job value--the marketplace.

3. Modify status quo--Make no changes in FES, but increase the role of merit in establishing pay (through pay banding, abolishing step system, etc.) and/or continue efforts to decrease barriers to job entry though expanding equality of opportunity (limiting credentialing, improving internal mobility, etc.)

Advantages

- We take the offensive, forcing comparable worth advocates to attack concepts of merit and equality of opportunity.
- We move in the direction of a fairer and more objective pay system.

Disadvantages

- Following this option would mean sidestepping the issue of relying more heavily on the marketplace.
- This option leaves OPM open to charges from comparable worth advocates that OPM recognizes at least some problems with the pay-setting system; once OPM admits to an imperfect system, we facilitate their arguments.

4. Modify FES with market forces--Conduct a full review of FES with the intention of retaining beneficial aspects of system while increasing reliance on market, together with enhancing merit and decreasing barriers as in Option 3. On a parallel track, clearly demonstrate the problems with comparable worth--show that the market is the only fair and objective system in the long run. Public sector pay systems are best to the degree they seek to reflect surrounding market forces. This option would address head on general arguments by comparable worth advocates, as well as more specific arguments against the FES.

Advantages

* Puts OPM on the offensive--decreases our vulnerability when the issue is raised and it appears OPM has not attempted to address it.

* Entails full review of FES.

Disadvantages

* Forces issue on the table before it might otherwise be raised by comparable worth advocates (i.e., OPM had better be very well-prepared).

5. Full reliance on market--This option differs from Option 4 in that market wages would directly determine wages of Federal employees. One example of how this could be done is by breaking down the GS into occupational schedules and following the general principle that average private sector salary for any occupation should be approximately equal to the average public sector salary for that occupation. A review of FES would still be necessary because parts of this system would need to be retained--we still need a mechanism for equating a particular job in the public sector with an equivalent one in the private sector.

Advantages

* OPM takes the offensive--decreasing our vulnerability when the comparable worth issue is raised and it appears OPM has not addressed it.

* We adopt a more objective pay system--only the market can place an objective value on job worth.

Disadvantages

* This option will be the most difficult to carry through politically.

RECOMMENDATION:

That OPM proceed with Option 4 in the short term, developing strong pro-market arguments and reviewing the FES. As part of a longer term strategy, OPM should pursue Option 5. This approach also allows a fall-back to Option 3, or even 2.

☐ Agree ☐ Disagree ☐ Let's discuss

Comments: ① OSD to review FSE 442 by 4/1/84, review validity study (ASE)
② Review qualification standards (X-118), Conduct OSP-Dec 5/1/84
③ Review classification Stds for adequacy (GS's 1, 2, 4, 5, 7 & Key Occupations) - 7/1/84
④ Conduct with WED (OPM) on purpose must & Characteristic Effects on Market a FES - 4/1/84
⑤ Conduct with COMP (OPM) on Special Pay Rate (3/4/84) Donald J. Devine approved for methods 4/1/84
⑥ Prelim verbal legal Opn to Director 6/1/84. Status reports should be given regularly.

Ms. OAKAR. Mr. Byrnes, would you fully describe the current OPM review of the standards process and indicate when the various phases of the study are scheduled for completion as well as the entire review.

Mr. BYRNES. Let me first put the study in some historical context. For over 100 years and through 18 administrations both parties and both sides of the political spectrum, the present job evaluation system has developed and changed. Once again we at the OPM are trying to do a complete reassessment of the staffing process, not just standards setting but all of it, OPM Staffing Group right now is collecting information and developing very preliminary suggestions as to how the system might be improved.

Some of the things that we need to consider in the study are the classification standards, the qualification standards, the management of our standards program, the relationship between job evaluation and pay, relationship between performance and pay, relationship between selection and productivity, and the relationship between the Federal Government's various job evaluation systems. I could go on for quite some time. I cannot specify what approach or methodology we are going to be using for this entire study. You have to realize that of course this is a huge complicated system. For 1 one-page form, the SF-50, the standard personnal action form that we use, there are over 600 pages of guidance in the Federal personnel manual.

Ms. OAKAR. Right.

Mr. BYRNES. As the system stands now every one of those pages is necessary guidance. What we are going to do is develop as much information as we can on this huge system that we inherited and then try to determine what way to go in trying to improve that system.

Ms. OAKAR. Let me ask the question again and if you don't think you can answer it, just say "I don't think I can answer it." If you would, indicate when the various phases of the study are scheduled for completion as well as the entire review.

Mr. BYRNES. Right now we are in what I would call a diagnosis phase similar to a doctor—when we will finish diagnosis before we begin treatment And when we feel that we have enough information to make rational decisions about which way to go, we will do so.

Ms. OAKAR. Do you think the entire review will be done in my lifetime or yours?

Mr. BYRNES. I hope so. Certainly the system has developed over a much longer period of time.

Ms. OAKAR. You don't want to give us any target, is it 1 year, 3 years, 20 years?

Mr. BYRNES. I would expect the review to be done by the end of this year.

Ms. OAKAR. My staff director says that you told my staff that you would have it completed in December, is that correct?

Mr. BYRNES. I think I just said the same thing. I think I said it would be completed by the end of this year.

Ms. OAKAR. OK. So your——

Mr. BYRNES. In terms of giving you target dates as to which parts are going to be completed when. I give that at this time.

Ms. OAKAR. Can you describe the number of people at the staff level currently involved in this study and the progress that has been made?

Mr. BYRNES. Certainly, but first let me say that the completion date I mentioned would be the completion date for the initial phase.

Ms. OAKAR. Wait a minute; run that one by me again. The completion date would be——

Mr. BYRNES. I expect that we will have——

Ms. OAKAR. Who do you mean by that?

Mr. BYRNES. I think we will have drafts and initial plans of where we want to go by the end of the year. I would hope that by then we will have a good idea if there is any bias in the system as a part of that study.

Ms. OAKAR. So you won't have the complete study done, you will have just some phase of it done, is that right?

Mr. BYRNES. I think that is probably true.

Ms. OAKAR. How many people at the staff level are currently involved in this study, and what is their progress going to be?

Mr. BYRNES. In looking at the standards part of this system, there are approximately 40 people in our Office of Standards Development who are looking at it.

Ms. OAKAR. Forty people?

Mr. BYRNES. Right.

Ms. OAKAR. I see.

Mr. Byrnes, in his testimony on April 3, in response to a question that was submitted to him, Dr. Devine stated that as part of the study the OPM is, and I quote, "comparing the virtues and problems of the Federal wage system with those of the General Schedule and we are examining the rationale for maintaining these distinct systems." Is this correct?

Mr. BYRNES. Yes.

Ms. OAKAR. Would you fully describe this portion of the study and the purpose for its inclusion in the review?

Mr. BYRNES. I would like to, Congresswoman. Frankly, today I came prepared to discuss my memorandum to the Director, as stated in your invitation, and I really don't——

Ms. OAKAR. You don't want to talk any more about your study?

Mr. BYRNES. I really didn't come prepared to discuss it in detail, in the detail you are looking for.

Ms. OAKAR. Oh. I will ask the questions and maybe you can submit them in writing, OK?

Mr. BYRNES. OK.

Ms. OAKAR. Are you considering the possibility of merging or integrating the prevailing rate and general schedule, or seeking legislation to merge or integrate these classification and wage systems?

Mr. BYRNES. Certainly if we were, that would be a prejudgment and we would not need to be doing a study. Therefore, that is something we will look at but it is not something we are determined to do.

Ms. OAKAR. I see.

Mr. Byrnes, it is my understanding that at a meeting with various union representatives on May 22, Dr. Devine indicated that my pay equity bill would require him to initiate such a review, which

is not true, and that he was concerned with its impact on the prevailing rate system. Yet it now appears that the OPM is proceeding with this type of study on its own accord. So it is not my legislation but OPM that determined that it was necessary to review the two systems. Is that correct?

Mr. BYRNES. I am afraid you would have to ask Dr. Devine. I was not at that meeting. I really can't say what went on.

Ms. OAKAR. You were not at the meeting?

Mr. BYRNES. No, I was not.

Ms. OAKAR. Were you aware of the meeting?

Mr. BYRNES. I was only aware of it because the day before a member of my staff called and indicated they had received inquiry from some union members regarding it.

Ms. OAKAR. But Dr. Devine didn't tell you he was going to carry out your memorandum?

Mr. BYRNES. No. Unfortunately, he has a nasty habit of not clearing his calendar through me very often. I've tried to get him to correct that but it is rather difficult.

Ms. OAKAR. Sorry, I didn't hear you.

Mr. BYRNES. I have tried to get him to correct that but that is rather difficult.

Ms. OAKAR. Once again referring to Dr. Devine's April 3, 1984, testimony, he stated that the in-house review would also include, and I quote, "whether any form of discrimination exists in our classification system." Would you fully describe this portion of the study and the amount of resources in comparison to the total review that will be devoted to it?

Mr. BYRNES. Again, Congresswoman, I came prepared to discuss my memorandum to the Director which was in the invitation. I am not prepared to discuss the specifics of our study.

Ms. OAKAR. OK. I will ask another question and you can submit it for the record in writing or whatever you feel prepared to talk about, this so-called study you are doing.

Mr. BYRNES. I will be more than happy to submit anything I can for the record.

Ms. OAKAR. OK, let me ask another one, then. Are you also reviewing the system for its compliance with pay equity principles along the lines of the Hay or Willis evaluations or any other techniques?

Mr. BYRNES. Certainly that would be included. We have really not excluded any avenues.

Ms. OAKAR. Mr. Byrnes, after reading your memorandum of May 14, how do you expect me or anyone else to have faith in your objectivity or the objectivity of the study conducted under your supervision?

Mr. BYRNES. Again, Congresswoman, that was merely an option that I proposed for Director Devine on a wide-ranging study.

Ms. OAKAR. Using the language in the option, "We could create disorder." Is the purpose of your memorandum to create disorder between women's groups and unions?

Mr. BYRNES. No, not that at all. I presented that as an option to the Director as possible repercussions from certain options.

Ms. OAKAR. What does that have to do with comparable worth or pay equity? What does that have to do with the fact that the poor-

est person in the country is an older female whose insurance or pension is based on her wages when she was younger? Tell me what that has to do with it.

Mr. BYRNES. Again, Congresswoman, I was presenting this looking at it from the point of view of what would be an argument in favor of supporting H.R. 4599, and from my point of view, thinking of an option from the point of view of a liberal Democratic mindset that was——

Ms. OAKAR. Would you have had any other options, had you not been a liberal Democrat?

Mr. BYRNES. Yes, I do.

Ms. OAKAR. What are those?

Mr. BYRNES. Again, I would be more than happy to prepare them and submit them for the record. Obviously it is not contained in that memorandum.

Ms. OAKAR. In this, right?

Mr. BYRNES. I don't know, you may have other memoranda I don't know about.

Ms. OAKAR. Are you a liberal Democrat?

Mr. BYRNES. No, not now.

Ms. OAKAR. I see.

Mr. BYRNES. But coming from a blue-collar Catholic background, I know what they think like.

Ms. OAKAR. With regard to the memorandum, Mr. Byrnes, I have this series of questions. You state that, and I quote, "We know that a comparable worth system will not work." How do you know this, Mr. Byrnes?

Mr. BYRNES. Well——

Ms. OAKAR. Have you or OPM conducted any studies in this area?

Mr. BYRNES. I think we know that because, frankly, Congresswoman, nobody can describe what comparable worth is. When you read the literature on comparable——

Ms. OAKAR. Have you read my bill?

Mr. BYRNES. Yes, of course. And I have read quite a bit of literature on comparable worth. Some people talk about fair job evaluation, some people talk about fair job evaluation with job content analysis, some people talk about biasing job evaluation systems to make comparable worth include a sex factor. So what is it, how does it work—I don't think anyone can answer that. I think if you talked to hundreds of consultants on it, you would get hundreds of different answers.

Ms. OAKAR. But you are the person that is in charge.

Let me ask you, are you familiar with the States that are doing studies in this area? There are 18 of them in the Nation, including my own State of Ohio.

Mr. BYRNES. I am familiar with some of them.

Ms. OAKAR. Are the Governors off the wall also, for this kind of study?

Mr. BYRNES. Again, I don't know what they are particularly looking at. Some of them are looking at fair job evaluation which we certainly support. But for instance, I notice that your bill has now been amended to delete references to comparable worth and, likewise, you deleted the section that I was concerned about where you

found that a result of discriminatory wage-setting processes in the Government right now that there was sex discrimination which was presented as a fact in the original bill.

Ms. OAKAR. So you support the amended version of the legislation; is that what you are telling the Chair?

Mr. BYRNES. No; I am saying I think you much improved it by taking out a finding that there is sex discrimination in the Federal Government that your bill was presenting as a fact.

Ms. OAKAR. If you thought it was an improvement, why didn't you put that in the memorandum to Dr. Devine, or isn't that the——

Mr. BYRNES. Unfortunately, that memorandum was written concerning H.R. 4599 and I believe it was written before that bill was amended. Certainly before I knew the bill was amended.

Ms. OAKAR. We had already approached it before your memorandum.

Mr. BYRNES. I was not aware of it. That memorandum was written with H.R. 4599 in mind.

Ms. OAKAR. You don't monitor what the subcommittee that has direct relationship with OPM does?

Mr. BYRNES. The——

Ms. OAKAR. Do you have anybody?

Mr. BYRNES. Our Office of Congressional Relations had not informed me of it at that point.

Ms. OAKAR. Is that their job? They monitor the hearings; is that it?

Mr. BYRNES. They tend to do that, yes.

Ms. OAKAR. I see.

You also referred to an article which shows how certain standards could be manipulated. Do you recall the name and author of the article?

Mr. BYRNES. Yes, I do. The name of the article was "Strategies for Creating Sound Bias-Free Job Evaluation Plans."

Ms. OAKAR. I didn't hear that.

Mr. BYRNES. "Strategies for Creating Sound Bias-Free Job Evaluation Plans."

Ms. OAKAR. By?

Mr. BYRNES. The author was Helen Remick, Ph.D., Director of the Office for Affirmative Action, University of Washington.

Ms. OAKAR. At the top of the memorandum there is a handwritten notation. Could you tell us what the word is and who wrote it?

Mr. BYRNES. I am not aware of any handwritten notation on the memorandum.

Ms. OAKAR. Could the staff supply Mr. Byrnes with a copy?

Is that your signature, by the way?

Mr. BYRNES. The signature that appears to be like James L. Byrnes, yes, is mine.

Ms. OAKAR. What is that, s-a-r or y?

Mr. BYRNES. You might ask the person from whom you obtained this memorandum because I have no idea.

Ms. OAKAR. You are not aware of what that says?

Mr. BYRNES. No.

Ms. OAKAR. Mr. Byrnes, did you have any conversations with Dr. Devine or anyone else concerning the memorandum after you

wrote it? You have already told the subcommittee he directed you to prepare something, thinking in terms of being a liberal Democrat, whatever that means. I think we wish we didn't have that term sometimes ourselves, we Democrats. Did you have any conversations with Dr. Devine or anyone else concerning the memorandum?

Mr. BYRNES. I am sure I had conversations with him afterwards.

Ms. OAKAR. After you wrote it?

Mr. BYRNES. Between May 14 and this morning, yes.

Ms. OAKAR. Did you have any conversations with him before May 22? Do you think he read your memorandum after about a week, 8 days?

Mr. BYRNES. I don't know when he read the memorandum.

Ms. OAKAR. Do you recall when you had conversations with him?

Mr. BYRNES. Do I recall them?

Ms. OAKAR. Yes.

Mr. BYRNES. Some of them.

Ms. OAKAR. Was it several days after you wrote the memorandum or before, or more or less?

Mr. BYRNES. I am sure I probably talked with him on the 14th and several dozen times between the 14th and the 22d.

Ms. OAKAR. Did you ever talk to him about the memorandum in that period?

Mr. BYRNES. I don't believe so. I talked to him about pay equity, of course.

Ms. OAKAR. You are before the subcommittee so, you know, truth is really important here.

Mr. BYRNES. I understand.

Ms. OAKAR. Did you ever talk to him between the 14th and 22d about the memorandum?

Mr. BYRNES. Oh, of course.

Ms. OAKAR. Of course.

Mr. Byrnes, in his testimony before this subcommittee on April 3, Dr. Devine stated that he considered the current Federal job evaluation wage system to be fair and equitable and in your memorandum you term the classification systems as confusing and inefficient. Which is it since it can't be both?

Mr. BYRNES. Well, our job——

Ms. OAKAR. Do you agree with Dr. Devine or do you agree with your memorandum?

Mr. BYRNES. I said before, Congresswoman, this was an option that I was proposing. I don't necessarily believe everything in the memorandum. I am talking about——

Ms. OAKAR. What part of the memorandum don't you believe in?

Mr. BYRNES. Again, I am presenting an option from one particular point of view.

Ms. OAKAR. You said you don't necessarily believe in parts of the memorandum. Which part don't you believe in?

Mr. BYRNES. I said I was presenting this as an option and I think that is what it is. I think there are problems with our system, certainly. Whether sex bias is one of them I don't think anyone knows right now.

Ms. OAKAR. That is the purpose of the study, isn't it?

Mr. BYRNES. Right. Certainly one of the purposes of our study, that is correct.

Ms. OAKAR. Mr. Byrnes, obviously your memorandum has serious implications concerning the Hatch Act violations and other infringements on title V of the Code of Federal Regulations. Specifically, section 1001.735-201, which states, "An employee shall avoid any action which might result in or create the appearance of losing complete independence or impartiality or affecting adversely the confidence of the public in the integrity of Government."

Equally important, your conduct in my opinion demonstrates incredible irresponsibility when someone of your stature would recommend manipulating a classification system that affects over 1 million women and men, for political purposes.

Mr. Byrnes, do you think you violated the Hatch Act?

Mr. BYRNES. That is certainly why I wrote the paper as an option, to assure that the Director was presented with wide-ranging options and without violating any law.

Ms. OAKAR. You don't think you violated the law?

Mr. BYRNES. Of course not.

Ms. OAKAR. And so you believe that the spirit of this memorandum is a legitimate option—attempting to create "disorder, manipulation, irrationality"—I am quoting from your words—"ridiculous concepts, dividing the white-collar and blue-collar unions," referring to women who support pay equity as—I imagine you refer to them as—"radical feminists." Do you feel that that was in the spirit of the Hatch Act, conforming to it? Is that right?

Mr. BYRNES. Well, if you recall, Madam Chairwoman, the Director asked me to come up with a liberal Democrat's view of why OPM would support H.R. 4599. Certainly those were about the only reasons I could think of to come up with that type of reasoning.

Ms. OAKAR. Do you think Dr. Devine violated any law?

Mr. BYRNES. By asking me——

Ms. OAKAR. By asking you to prepare a memorandum pretending you were a liberal Democrat.

Mr. BYRNES. I was asked to prepare a memorandum giving him all the options for policy decisions. I think every agency head in this Government does that probably dozens of times a day.

Ms. OAKAR. Could you divorce this so-called option from political strategy?

Mr. BYRNES. Certainly it is an option that if we were interested in pursuing we would have felt differently about H.R. 4599 and the new bill H.R. 5680.

Ms. OAKAR. You don't feel Dr. Devine followed any of your strategy in the memorandum?

Mr. BYRNES. I believe he is on record as opposing both bills, and certainly my memorandum presents a different option for his consideration.

Ms. OAKAR. Dividing union against union?

Mr. BYRNES. As I said, when you are trying to come up with a strategy from the point of view of a liberal Democrat you often say funny things.

Ms. OAKAR. Do you think the President of the United States knows about your memorandum?

Mr. BYRNES. Oh, I guess in my wildest fantasies I would like to think I was that important, but I doubt whether he took the time.

Ms. OAKAR. Do you know if he knew of it?

Mr. BYRNES. No, I don't know.

Ms. OAKAR. Do you know if David Stockman knows of it?

Mr. BYRNES. Assuming they both read the Post, I assume they know about it.

Ms. OAKAR. Have you ever talked to Mr. Stockman about it?

Mr. BYRNES. No. I have never talked to Mr. Stockman at all.

Ms. OAKAR. And you never talked to anyone in the White House? No one admonished you or asked you what your deal was, why you wrote it?

Mr. BYRNES. I have not talked to anyone in the White House about the memorandum, no.

Ms. OAKAR. Have you talked to anyone else in Government with the exception of Dr. Devine or your immediate staff about it?

Mr. BYRNES. I have to admit I have gotten a few phone calls about it since the Post article, so I have talked to other people.

Ms. OAKAR. Other members of the administration?

Mr. BYRNES. Yes.

Ms. OAKAR. Who are they?

Mr. BYRNES. Frankly, just friends of mine that I happen to know called in to say they saw my name in the newspaper. But it certainly didn't involve strategy, though.

Ms. OAKAR. Who are the friends? Are they employees of the administration?

Mr. BYRNES. Some of them. I received calls from a number of people; some of them work in Government, some outside of Government.

Ms. OAKAR. What agencies do your friends work for?

Mr. BYRNES. They work for quite a few agencies.

Ms. OAKAR. Is the President your——

Mr. BYRNES. I didn't particularly keep a log of who called.

Ms. OAKAR. Can you recall who they were?

Mr. BYRNES. I suppose I could recall some of them but I hardly see where that has any relevance about who I talked to regarding my memorandum to Dr. Devine.

Ms. OAKAR. Mr. Byrnes, do you consider liberal Democrats anti-labor?

Mr. BYRNES. That is a good question. I suppose to the degree that some of their policies, in my opinion, adverseley affect blue collar and white collar labor union people, I could say yes, but, again, those are policy disagreements that I might have that frankly have very little bearing on the memorandum.

Ms. OAKAR. Since you were asked to think like, "a liberal Democrat," why don't you define for the subcommittee who a liberal Democrat is?

Mr. BYRNES. Well, I suppose someone along the line of yourself or maybe Mr. Feinstein of the other subcommittee.

Ms. OAKAR. Mr. Who?

Mr. BYRNES. Mr. Feinstein.

Ms. OAKAR. Oh, the economist.

Mr. DEVINE. No, the fellow creeping back there behind the desk.

Mr. BYRNES. As a matter of fact, I believe the Director used his name when he asked me to come up with the option.

Ms. OAKAR. Do you think I am liberal on abortion issues?

Mr. BYRNES. I don't know, Congresswoman.

Ms. OAKAR. Why don't you look up my record? It might change your mind.

Mr. BYRNES. If I do an option for the Director concerning abortion, I certainly would.

Ms. OAKAR. Giving an example of somebody like myself and Mr. Feinstein, giving him notoriety.

Mr. BYRNES. I am speaking in the context, of course——

Ms. OAKAR. Would a liberal Democrat be someone who wants the issue of fairness with respect to pay as part of their agenda?

Mr. BYRNES. I think everyone would want that. I am speaking in terms of the theory or lack of theory of comparable worth as embodied in H.R. 4599; that's what this option addressed.

Ms. OAKAR. I am just trying to understand who you think of when you think as a liberal Democrat, as Dr. Devine told you to do in the memorandum.

Mr. BYRNES. Again I guess I think of Andy Feinstein.

Ms. OAKAR. Do you have any definition beyond an individual?

Mr. BYRNES. I think the thinking would be similar to what is embodied in my memorandum as to why OPM would support H.R. 4599.

Ms. OAKAR. Can you offer any justification for your conduct to this subcommittee?

Mr. BYRNES. I am merely trying to respond to your questions as well as I can, Madam Chairwoman.

Ms. OAKAR. Are you proud of this memorandum?

Mr. BYRNES. I did the memorandum only because I was told to do it.

Ms. OAKAR. Are you proud of the memorandum? Would you have liked to have seen it carried out?

Mr. BYRNES. I presented it as an option. If I would have liked to have seen it carried out, I think OPM's position on the bills would be different. It is a policy option and that is all.

Ms. OAKAR. A policy option?

Mr. BYRNES. It would be wrong for me to ask the Director of OPM to make a decision without giving him all of the possible policy options.

Ms. OAKAR. Mr. Bosco.

Mr. Bosco. Thank you, Madam Chair.

Mr. Byrnes, I must say that in some ways I sympathize with you especially for a couple of reasons. Ordinarily when Mr. Devine is here the Republican members are here to give him some comfort, but apparently they have decided to give this hearing the 10-foot-pole treatment.

Second, I sympathize because, if anything, your testimony shows that there is unfairness to men in the Federal work force as well.

I can't imagine a worse order to be given to any employee than to be forced to think like a liberal Democrat, especially when it appears that you are not one.

But I want to say this, that I think that if I could read behind the lines in your memo, I don't think your testimony is credible

that this just happens to be an option that you were asked to come up with some ideas of how a liberal Democrat might view OPM in this light and you were presenting your director with one way of doing that.

It appears to me that you had a brainstorm here, that you got to work and you thought this presents an excellent opportunity to divide people one against another, unions against radical feminist groups, employees apparently against their employers, unions against unions, and you end the memo by saying this situation presents opportunities that we should not ignore.

That doesn't sound like an option. That sounds like a bit of advice.

What caused you to tell Dr. Devine that these are opportunities that we should not ignore? Doesn't that go from being an option to more or less being advice?

Mr. BYRNES. No, any option I would give the Director I would give a recommendation section. Certainly any option that you look at you have to present the pros and the cons, and I think that is what I was doing.

Mr. BOSCO. So this is the recommendation section of your memo, that although the simple objective option that you are presenting, of pitting one group against another over this issue, could be considered just your job, and what Dr. Devine asked you to do, the recommendation section says that we should go ahead and do it, right?

Mr. BYRNES. I said it is a dangerous course and it might change the nature of the whole debate on comparable work.

Mr. BOSCO. Why is it a dangerous course?

Mr. BYRNES. I think this hearing is evidence as to why that option might have been a dangerous course.

Mr. BOSCO. What is dangerous about it? The recommendation that you pit groups against each other and the fact that you wrote this on Government stationery?

Mr. BYRNES. I consider this to be a policy option.

Mr. BOSCO. What is dangerous about the policy option? What would you say is dangerous about it?

Mr. BYRNES. Well, as I said, in any policy option there are pros and cons.

Mr. BOSCO. But most policy options aren't necessarily attendant with danger. There may be pros and cons. What is dangerous about your recommendation?

Mr. BYRNES. Well, frankly, Congressman, any policy option at OPM appears to be a dangerous course.

Mr. BOSCO. Very clever. That sounds like Dr. Devine's answer especially given that he just whispered in your ear.

Let me ask for a serious answer on your part. What is dangerous about your recommendation?

Mr. BYRNES. I just answered that question, Congressman.

Any policy option has with it an element of danger. Certainly this one would have one since I am appearing to say we should support H.R. 4599.

Mr. BOSCO. And for what reason?

Mr. BYRNES. That is contained in the memo.

Mr. Bosco. Why don't you paraphrase it? For what reason are you saying you should support this measure, because you believe in the measure or because you think it would pit people against each other?

Mr. BYRNES. Because it would show the comparable worth theory or theories or lack of theories whatever that might be, to be just that—all form and very little substance, or at least confusing substances.

Mr. Bosco. And you feel that you could use this measure to pit groups against each other, feminists against labor unions, labor unions against labor unions, liberal Democrats against conservative Democrats, or Republicans, isn't that the dangerous part of what you are recommending?

Mr. BYRNES. I would consider that to be the result of a comparable worth type of system. That is what I am saying in the memo.

Mr. Bosco. No, you are not saying that. You are not saying that comparable worth will do this, therefore it is a bad idea.

You are saying OPM can and should do this and that is why it is a dangerous idea.

Mr. BYRNES. I am saying if we support the bill, if it is enacted, this is what would happen.

Mr. Bosco. I have to ask you to be more specific.

You are writing a memo that you say we can use this bill to pit groups against each other. You are saying that we should not ignore that opportunity and you are saying, of course, this is a dangerous course to take.

Now, I am asking you why is it a dangerous course to take?

Mr. BYRNES. Again, any policy option would have these dangers. What I am saying is, from my point of view, the reasons we would support the bill if it was enacted, this is what would result.

Mr. Bosco. It seems to me then that would be a danger of the bill rather than the danger of any course of action you might take on the bill.

Mr. BYRNES. Well, at the time I certainly knew that Director Devine was leaning very strongly against supporting the bill.

Mr. Bosco. Is your position at OPM, would you say, mostly a political one or are you asked to come up with political suggestions or solutions to——

Mr. BYRNES. I am asked to come up with policy options.

Mr. Bosco. Well, I might say that at least in my opinion I think that you could better use what is obviously a great deal of intelligence to come up with options that may give us a more positive way of looking at these matters rather than using Government time, stationery, and your own energy to come up with ways of pitting people against each other.

It is not my feeling that that is the purpose of any of our work with Government, to pit groups against each other and it seems to me that comparable worth—I haven't decided in my own mind whether I support or would support legislation along those lines, but I don't think I could come to that conclusion by pitting people against each other.

Mr. BYRNES. Congressman, I assure you that most of my policy options are very dull and mundane and don't make very interesting reading in the newspaper.

Ms. OAKAR. Are you kidding?

Mr. Bosco. I have to commend you for at least in this instance breaking that habit.

Thank you, Madam Chairman.

Ms. OAKAR. Thank you, Mr. Bosco.

Mrs. Schroeder.

Mrs. SCHROEDER. I would like to pursue this policy option a little further because I don't understand how you call that a policy option. It looks to me like a political option. The policy is dealing with comparable worth. The way I read your memo, you have decided that comparable worth is a bad idea and what you are doing is a political strategy as to how to play a game with something you think is a bad idea.

Mr. BYRNES. It is a policy option in dealing with the consequences of those options.

Mrs. SCHROEDER. You are calling it policy, but I think maybe it is politics, instead. If you look at the law, obviously you are not allowed to use appropriated funds to do political memos. But calling it a policy option doesn't make it a policy option. I think it is a flat-out political option, because you are admitting in the memo you don't think comparable worth is a good idea. You can put the study together and use it to pit all these groups and tie what you call liberal Democrats in knots, is that right? If that isn't political, I don't know what is.

Mr. BYRNES. Clearly we oppose the bill. If this was such a good policy option, maybe we would leave——

Mrs. SCHROEDER. But you pretend like you are going to be for it, right, and do the study and then skew the study——

Mr. BYRNES. Nowhere in there do I suggest skewing the study. All I am saying is that comparable worth, whatever that creature might be, can't really describe adequately what we have to do in the Federal Government. So is it fair job evaluation? What type of fair job evaluation? Is it job content analysis? Everyone in comparable worth seems to be coming up with a different idea of what it is.

Mrs. SCHROEDER. Earlier you said you did not know whether or not there was sex bias in the Federal system because you would have to have a study, right?

Mr. BYRNES. I said I don't know whether there is sex bias and that is why I objected to 4599 because it came to the conclusion, finding as a fact, that there was sex bias in the Federal Government.

Mrs. SCHROEDER. We had long hearings on it, but we have also introduced a new bill saying we will do a study on it. You don't know, and so we would have to do a study and you would be the one in charge of the study, right?

Mr. BYRNES. I am in charge of a study now that is looking at that question, among others.

Mrs. SCHROEDER. So here we are with this sex bias issue. Do you not think that is an important issue?

Mr. BYRNES. Of course I think it is an important issue. I think it is so important that we shouldn't conclude that there is sex bias in our system and put it in law in the form of an act of Congress.

Mrs. SCHROEDER. We are not. We are asking for a study.

Mr. BYRNES. This memo was written concerning a bill that said that. It said we find as a fact there is discrimination.

Mrs. SCHROEDER. No, it was dealing with a study.

Mr. BYRNES. I can quote from the bill. It says Congress finds that as a result of these discriminatory wage differentials resulting from discriminatory wage-setting practices. That wasn't stated as a thesis in the bill, it was stated as a fact.

Mrs. SCHROEDER. I yield to the gentlewoman.

Ms. OAKAR. Your memorandum is dated May 14. We had already amended the bill. Did you know that?

Mr. BYRNES. I did not know that, and I don't think that you can say that I did.

Ms. OAKAR. What is your salary? Tell this subcommittee what you make here. What is your salary?

Mr. BYRNES. $59,000 and change.

Ms. OAKAR. You are in charge of a study and you don't know what the subcommittee is doing on a bill that you criticize?

Mr. BYRNES. I have just been informed that the markup was on May 15, Congresswoman, by our Congressional Relations officer.

Mrs. SCHROEDER. Let me go back to the point where you said you were not talking about skewing the study. "If the Oakar bill passes, it would be a tremendous opportunity for OPM to develop a real comparable worth system and show how preposterous it would be." Those are loaded words as far as I am concerned.

"The Federal Government's classification system, which OPM has been trying to change for many years, is confusing and inefficient in any event, so a little more irrationality wouldn't hurt that much." That is not cute from my standpoint. And it goes on, "but it would show a clear picture to the private sector about how ridiculous the concept of comparable worth is and that in fact it is only job discrimination." To me, that sounds like skewing the study.

Mr. BYRNES. No, I think it says exactly what it says. It says that any comparable worth system would eventually come up with that type of a result and it would show it to be job discrimination. That is why I have sent to the Director an article that was pro-comparable worth that basically showed how to bias fair job evaluation systems to come out with the goals that they want, equal pay for men's and women's jobs regardless of the content.

Mrs. SCHROEDER. What I would think if I were Director Devine, you are the person who is going to oversee the study and you are saying, "Let's go along with this. We can fix them and we can save the private sector from this ridiculous idea and put this to bed once and for all." I think it is political and is not a policy option. You say, "We have an opportunity, only in this case it will be under your control"—meaning Dr. Devine—"so we are going to control this and have this objective study. We will call it objective, wink, wink"—and someone got to the memo first. It sounds like skewing the study.

I want you to tell me a bit about radical feminists. What are those groups?

Mr. BYRNES. Again, in the context of the memorandum, it would be the people who were proposing the comparable worth system, whatever that might be.

Mrs. SCHROEDER. Maureen Reagan. Jill Ruckleshaus.

Mr. BYRNES. I am not going to get into——

Mrs. SCHROEDER. Peggy Heckler. Olympia Snowe.

Mr. BYRNES. I used to work for Mrs. Heckler. I would doubt that she——

Mrs. SCHROEDER. Was she a radical feminist? Is that why you left?

Mr. BYRNES. I don't think so.

Mrs. SCHROEDER. Elizabeth Dole. You don't want to say who you think they are, but you know who they are?

Mr. BYRNES. I am certainly not going to characterize anyone in those terms there, but I think the Director got my clear meaning in the policy option.

Mrs. SCHROEDER. But isn't it really still a political option? Aren't you saying to the Director, "There are radical feminists," which I assume you think are Democrats; there are unions which you think are Democrats and this is a great opportunity to pit Democrats against Democrats?

Mr. BYRNES. This is a policy option why we would support H.R. 4599 given the liberal Democratic mindset and these are the results.

Mrs. SCHROEDER. But you are not supporting it in good faith?

Mr. BYRNES. I can't support every option in good faith that I give the Director. Many of them are contradictory. Of course, I can't support every option in good faith.

Mrs. SCHROEDER. I find it amazing that you can be so playful with this.

Mr. BYRNES. I don't find it amazing to give the Director policy options that span the spectrum.

Mrs. SCHROEDER. It seems to me it is a political option, it doesn't span the spectrum at all. The spectrum is only in one direction and that is how we skew this and try and cause chaos on the liberal Democratic side rather than how we deal with real sex discrimination and find out if it is truly there. If it were race discrimination or religious discrimination in the Federal Government, would you come up with the same thing?

Mr. BYRNES. I would give the Director the vast spectrum of policy options.

Mrs. SCHROEDER. You don't think it is incumbent upon the Federal Government to be nondiscriminatory on the basis of race, or sex?

Mr. BYRNES. Of course I do, but that is irrelevant to the fact that I have to give the Director broad policy options.

Mrs. SCHROEDER. You have to give him that because he asks for it, he tells you to think like a liberal Democrat. You are saying, "I only answer to the captain of the ship," right?

Mr. BYRNES. I have a habit of doing what the Director asks me to do just as I am sure your staff does what you ask them to do.

Mrs. SCHROEDER. You are career, right? You are not in the political part of the SES——

Mr. BYRNES. I am a noncareer senior executive.

Mrs. SCHROEDER. Why does he ask you to think like a liberal Democrat? Does he think you are one?

Mr. BYRNES. You will have to ask him that. I don't know.

Mrs. SCHROEDER. Didn't you also do the memo on Federal Employee Attitude Survey and how to skew that?

Mr. BYRNES. No.

Mrs. SCHROEDER. You didn't have anything to do with the Federal Employee Attitude Survey?

Mr. BYRNES. Yes.

Mrs. SCHROEDER. You did?

Mr. BYRNES. I had been in the Office of Planning and Evaluation when that particular survey was made.

Mrs. SCHROEDER. And what did you do with it?

Mr. BYRNES. We published the results.

Mrs. SCHROEDER. Did you leave a few things out?

Mr. BYRNES. No. As a matter of fact, I believe your staff obtained all the questions and all the answers.

Mrs. SCHROEDER. I believe they did and I believe they were a little distressed with the emphasis. They found it to be maybe a little skewed. Do you think you are neutral and fair in how you proceed?

Mr. BYRNES. Absolutely.

Mrs. SCHROEDER. That is an interesting perception. What if the Director had told you to think about Federal employment policies as a woman? You have mentioned your secretary a lot. How do you think a woman in the Federal Government would feel about making sure that sex bias was eliminated?

Mr. BYRNES. I think any woman in the Federal Government would support fair job evaluation and equal pay for equal work and that is certainly what we support at the Office of Personnel Management.

Mrs. SCHROEDER. Comparable pay for comparable work, right?

Mr. BYRNES. I don't understand what that means, Congresswoman. I understand what is in the statute. I understand equal pay for equal work and that is what we are trying to enforce and ensure. It is a system designed to exclude bias on the basis of sex, race, nationality or any other factors. That is what we are trying to protect and preserve. We are not trying to put emphasis on one factor in a job evaluation system as the proponents of comparable worth want us to.

Mrs. SCHROEDER. With your background in personnel, you know comparable worth has been going on in personnel for years and years with desk audits and everything else, that that is not a new, radical, feminist, whatever it is, position. Comparable worth has been there for a long time and it was utilized by the courts in 1964 when we did away with race discrimination. It isn't as precise as mathematics, but it has become much more precise through the long usage by those of us who labor in the vineyards there.

Mr. BYRNES. If it has been around for such a long time, I would be interested to know why it was taken out of your bill.

Mrs. SCHROEDER. We are talking about studying to figure out how to do it. Is there anything wrong with the study?

Mr. BYRNES. It has been around for years but we don't know how to do it; but you have to look at a study. It seems to be very confusing.

Mrs. SCHROEDER. You know why you do the study first. You do the study first because you have got to find the magnitude of the problem, where it is worse and how you phase the problem out. Obviously you can't do it overnight.

Mr. BYRNES. Where what is worse?

Mrs. SCHROEDER. You don't just mandate it. You have to study it first.

Mr. BYRNES. It sounds like you are still assuming that there is a sex bias in the Federal work force which is in H.R. 4599.

Mrs. SCHROEDER. And you think there is none?

Mr. BYRNES. I think there is no evidence of it. If there is, you should have left the language of H.R. 5680 the same way it was in H.R. 4599.

Mrs. SCHROEDER. Did you read the transcripts of the hearings we had a couple of years ago?

Mr. BYRNES. I have not read the entire text.

Mrs. SCHROEDER. I wish you had because I think you would understand what we are targetting. I hope you look at the different States—the Council on States meets in Colorado, and they are very concerned and moving on this, and we should look at other countries. I know Australia has moved on this and they have closed their pay comparability gap to 85 cents. Everybody has found it in other places and we are trying to be reasonable and work on it.

Mr. BYRNES. And that is why we at OPM are on our own looking at the system to determine if there is any sex bias or any bias in it.

Mrs. SCHROEDER. Would you be shocked if I told you I don't trust you? I think it is a waste of the taxpayers' money to have you look at this system.

Mr. BYRNES. If you think it is a waste for people to look at the possibility of sex bias, then you might want to withdraw the legislation.

Mrs. SCHROEDER. I don't have trouble with people, but I have trouble with people who don't understand the difference between policy and politics. I think you are playing politics.

Mr. BYRNES. Well, if that's your interpretation, Congressman there's nothing I can say about that. All I can tell you is that it is a policy option.

Ms. OAKAR. Well, I really am amazed. I just think that you are an intelligent enough human being to know better than that and I am just surprised that you sit there saying that, because when you read this thing through, the policy we are talking about is sex-based discrimination and you even admit you don't know if it is there because we haven't done a study and without any of those facts in front of you, you go off on a tangent on how you are going to manipulate and skew this thing. That is politics.

Mr. BYRNES. That is why we're doing our study. What we are trying to do is build a system worth having, a complete staffing system. We are not going to just look at one facet of it. I know the system is huge and complicated and it has inconsistencies. We want to improve that. If there is any sort of bias in our job evaluation system, we want to do something about it.

Mrs. SCHROEDER. What are you going to do about it? Use it to pit women against unions? That is what you are saying.

Mr. BYRNES. I said this would be a reason for OPM to support H.R. 4599 looking at it from the perspective that Dr. Devine asked me to look at it.

Mrs. SCHROEDER. Well, it is certainly not the kind of top-level civilian neutral management that we envisioned and I am really very sorry to hear your testimony.

Thank you.

Ms. OAKAR. Thank you, Congresswoman.

I just have several other questions.

Do you consider manipulating Federal workers a policy option?

Mr. BYRNES. No. That is certainly why I opposed H.R. 4599. I believe a comparable worth system would inevitably dictate that we manipulate our job evaluation system.

Ms. OAKAR. Let me ask you, to make sure that I understand, you do not consider this memorandum political. Is that correct?

Mr. BYRNES. I consider it to be a policy option.

Ms. OAKAR. Let me read from it. I am an old English teacher. I believe language says it best. Here is a direct quote in your fourth paragraph; a simple sentence.

"The political possibilities of this situation should not be underestimated." Then you go on to talk about the administration and the Democratic House. What do you find nonpolitical about that sentence?

Mr. BYRNES. Again, it is a policy option.

Ms. OAKAR. To be political?

Mr. BYRNES. No, it is a policy option.

Ms. OAKAR. What is the meaning of the sentence "The political possibilities of this situation should not be underestimated"?

Mr. BYRNES. Unfortunately——

Ms. OAKAR. What is the meaning of that sentence?

Mr. BYRNES. Policy options often have overtones in this town.

Ms. OAKAR. What is the meaning of the words "political possibilities" in this sentence?

Mr. BYRNES. Again what we have to consider is what would happen if a bill such as H.R. 4599 would have been supported by OPM and enacted into law.

Ms. OAKAR. What is the meaning of the words "political possibilities"? Where do you say policy in that sentence?

Mr. BYRNES. I don't believe the word "policy" is in that sentence.

Ms. OAKAR. That is correct. The word "political" is, isn't it?

Mr. BYRNES. That doesn't make it a political option. It is a policy option, that if it has——

Ms. OAKAR. Why do you refer to the House of Representatives as a Democratic House?

Mr. BYRNES. As I said before, Congresswoman, that should have been a small "h".

Ms. OAKAR. And it was your secretary's fault. Is that right?

Mr. BYRNES. I didn't say that.

Ms. OAKAR. You didn't?

Mr. BYRNES. But if you think so——

Ms. OAKAR. You don't feel you violated the Hatch Act? Is that correct?

Mr. BYRNES. Absolutely not. I don't consider presenting policy options as a violation of any law.

Ms. OAKAR. And you consider the words "political possibilities" to mean policy options?

Mr. BYRNES. I consider it to be a facet of the policy options. Our presence here today indicates that.

Ms. OAKAR. I am going to ask unanimous consent that Mr. Byrne's memo, the Federal Employee Attitude Survey, also be included in the record.

Thank you very much.

[The information follows:]

FEAS III - Determining Change In Employee Attitudes Over Time

James L. Byrnes, Assistant Director
for Planning and Evaluation

Donald J. Devine
Director

Now that the Preliminary Report on Phase 3 of the Federal Employee Attitude Survey has been published, we are proceeding with further analysis of the data and are assisting program offices in incorporating the data into their chapters of the CSRA evaluation report. We are also beginning our analysis work in preparation for the FEAS report to be published in September.

In order to provide for a consistent approach to the analysis of change in employee attitudes over time, we propose to establish some guidelines for comparing the results of the 1979, 1980, and 1983 surveys for use in preparing all reports of the survey results. In the Preliminary Report, you indicated that percentage differences among the surveys would not be significant unless they are greater than plus or minus three percent. We think that additional guidance is necessary for program offices to categorize degrees of change.

In the analysis of survey data from the FEAS, two kinds of comparisons will routinely be made. First, comparisons of data from the 1979, 1980, and 1983 surveys will be made. Second, comparisons of data among the various pay category groupings (such as comparing responses of executives with those of GS 1-15 employees) will be examined. Differences in FEAS data over time, or differences between or among pay groups, may or may not be statistically significant. Before we progress any further, a decision about whether or not to pursue rigorous testing of the data for statistical significance is needed.

This memorandum presents four options for consideration in deciding this issue. The four options are briefly stated below, followed by a more detailed discussion of each, including advantages and disadvantages:

- The first option involves developing a methodology to compute statistical significance, using a specially devised computer program.

- The second option involves developing a practical guide, based on policy considerations.

- The third option is not to establish guidelines for assessing degrees of change.

- The fourth option is to report figures, i.e., report data, without assessing degree of change.

OPTION 1: Develop a methodology, including a specially devised computer program, for determining where differences in employee attitudes over time or between groups are statistically significant.

This option would involve using a mathematical formula to determine if there are statistically significant differences between items over time or between groups. This is a very technical and complex procedure which will enable us to mathematically assess degrees of change. More detailed information about the determination of statistical significance and the formula to be used in the calculation are included in Attachment 1.

Advantages. The advantages of this option include the following:

- This approach is scientifically more rigorous, continuing with the statistical standards established with the careful sampling techniques used. Use of this more stringent option would lend the survey results greater credibility among certain groups, such as GAO, MSPB, and the survey research community.

- We would have extensive documentation on how each of the tests was computed and what each set of findings was. This advantage would be particularly valuable when controversial conclusions would be drawn.

Disadvantages. Some disadvantages which may result from this option are:

- The statistical test being employed only handles comparisons of either agree or disagree responses for each item, as indicated in Attachment 1. As a result, some programs may report a significant change for an item while other programs might note that there was no significant change. OPM would then be open to charges of inconsistency when reporting findings.

- The development of statistical testing of this type will require a fairly large resource commitment, including staff resources from both OPE and CIG.

- Although the preliminary ground work has been laid for carrying out this option (statistical formula chosen and preliminary assessment of current and past computer files), the creation of a special SPSS file containing both FEAS 1 and 3 data and the development of a special FORTRAN program to conduct the statistical testing will take a minimum of 3 weeks. If computer programming problems are encountered, the time needed for conducting the testing could increase the time needed to complete the project. Considering the time constraints under which the CSRA report is now being prepared, this may be an unacceptable delay.

OPTION 2: Set reasonable, defensible practical guidelines for change to be used in reporting both government-wide data [such as the 3 percent used in the preliminary report] and for group comparisons (perhaps 5 or 6 percent), without claiming that the changes are significant in a statistical way.

This option would skirt the whole issue of statistical significance by concentrating on practical significance. A "decision rule" as to what was acceptable when reporting differences in attitudes over time or between groups could be developed as a policy decision. Then, the decision rule could be distributed to program offices for use in reporting FEAS data.

This is essentially the method that was used in comparing the results of the 1979 and 1980 surveys. The following guidelines were established for use in analyzing that data:

No change:	Less than 4 percent
Slight change:	4-8 percent
Moderate change:	9-13 percent
Large change:	14-20 percent
Dramatic change:	More than 20 percent

Advantages. The advantages of this option include the following:

- The reporting of FEAS data would never be inconsistent. All program offices would be supplied the "decision rules," and report any FEAS data pertaining to individual programs in the same way.

- Almost no resources, either staff or computer time, would be required to implement this option. Once a policy decision was made about the decision rules, then all program offices could be notified and their reporting checked to assess consistency with this policy.

- Documentation of the decision rule would exist, and OPM could not be accused of data manipulation or of false reporting, since it would be quite clear that the report was only describing change, not ascribing statistical meaning to it.

- The policy decision implicit in the decision rule could be made rapidly, and dissemination of the rule accomplished quickly. This would assist those program offices currently involved in preparing the CSRA report.

Disadvantages. The disadvantages of this option include:

- The use of a descriptive decision rule instead of a rule involving mathematical determination of statistical significance may be detrimental to the credibility of the survey. The FEAS has been advertised all along as a scientific survey of Federal employee attitudes, and lack of discussion of statistically significant differences may influence the acceptance of the survey as an objectively-based research study, especially among various groups such as CAO, MSPB, or the survey research community.

- Use of practical guidelines presupposes that assessment of degrees of change should be consistent for all programs. However, it is possible

that what may be categorized as a "slight change" in one program should be considered a "large change" in another program, when other factors are included such as policy changes, program priorities, economic changes, etc.

OPTION 3: Do not establish guidelines for assessing change. Leave those decisions to the program offices that are analyzing the data as part of their own program assessments.

For this option, program offices would be free to interpret degrees of change without central guidance. Individual program offices would have to determine for themselves the degree of change. Some may choose to develop a methodology for determining statistical significance, or develop a practical approach, or or simply report change.

Advantages. The advantages of option 3 include:

- In those cases where degree of change, from a practical standpoint, may vary from program to program, those program managers would be able to determine change as it pertains to their individual programs.

Disadvantages. The disadvantages of this option are the following:

- There would be no consistency across program lines, and it is likely that reporting of FEAS data could be contradictory. This would greatly decrease the credibility of the survey as a research study.

- If several offices decide to determine statistical significance, as described in OPTION 1, the resource implications are multiplied and there would no doubt be considerable duplication of effort.

OPTION 4: Report figures without determining degree of change.

In this option, the results of the data for each group being compared would simply be reported. Degrees of change would not be assessed by the writers of the report. For example: "The executive response to question 'X' was 58 percent in 1979 and 65 percent in 1983." Figures would be reported without ascribing degrees of change as statistically significant or describing degrees of change in practical terms.

Advantages. The advantages of this option include:

- This is the simplest approach to the data analysis - figures are just reported.

- There would be no controversy over the interpretation of changes in attitudes over time.

- There are no resource implications, either staff or computer time, involved in this option.

Disadvantages. The disadvantages of this option include:

- Absence of any assessment of change could subject OPM's report of findings to criticism, especially since the FEAS has been publicized as a tool for determining change in employee attitudes over time.

RECOMMENDATION: We recommend OPTION 2, the use of a policy-based decision rule which only purports to describe change, not attribute statistical significance to the description.

This option can be be accomplished quickly and with almost no resource expenditure. Further, it can directly reflect what the Director prefers by having the Director establish the standards for change when reporting the FEAS data.

It should be noted that the selection of OPTION 2 does not preclude an eventual implementation of OPTION 1, once the immediate needs for reporting FEAS data are met. At some future point, the mathematical and computer work needed to accomplish rigorous statistical significance testing can be done and reported. Since it will be made clear in reporting early FEAS findings that the changes described have not been statistically tested for confidence levels, future reporting of statistically significant change should not be perceived as inconsistent.

ACTION:

☐ Implement OPTION 1

☐ Implement OPTION 2 [Recommended]

☐ a. Provide me with recommendations for the decision rules.

☐ b. Use the decision rules provided below:

_____

_____

_____

_____

_____

☐ c. Pursue OPTION 1 in late Spring once the preparatory work for the CSRA report is completed.

☐ Implement OPTION 3

☐ Implement OPTION 4

_____ _____

Donald J. Devine, Director Date

Attachment

Further Information About OPTION 1

OPTION 1 provides for the development of a mathematical formula to determine if there are statistically significant differences between items over time or between groups. The formula, which would be the test for the difference between proportions adjusted to reflect the use of a stratified sample, would permit us to determine if there were significant differences between one proportion (P_1 the percentage of employees agreeing with an item in 1979) and a second proportion (P_2 the percentage of employees agreeing with the same item in 1983). The hypotheses being tested would be that there is no significant difference between P_1 and P_2 versus the alternative that a significant difference exists. In mathematical terms, the hypotheses are:

$$H_0: \ |P_1-P_2| \leq \text{delta} \qquad (\text{delta} \geq 0)$$

$$H_a: \ |P_1-P_2| > \text{delta}$$

The value delta reflects "practical significance" and must be determined before the testing is done. The choice of delta is not based on statistical considerations, but is a policy decision. Different values of delta may be set for various survey items. The implications of selecting various delta values are important, too. If delta is set at zero, then any difference which is greater than zero will be "checked" by the statistical test to determine if it is statistically significant. If delta is set at a larger number (e.g., 1, 2 or 3 percent), the test becomes more rigorous in that only differences of greater than delta will even be examined to see if they are significant. Consequently, it is possible with a delta value exceeding zero of eliminating potentially significant findings (i.e., changes of 2 percent which were significant, but maybe not worth noting) in lieu of identifying and highlighting the more significant (practically speaking) changes.

The reliability of this testing procedure can also be determined. That is, the use of this method of testing will allow us to calculate the probability that a significant difference has been wrongly concluded versus the probability that a difference has gone undetected. Thus, we will be able to assess the reasonableness of the significance which we would claim for an item.

One problem is that the statistical test being employed, which is a sophisticated version of the test for the difference between proportions, only handles comparisons of either agree or disagree responses for each item. This means that there are, at a minimum, two tests for significance being conducted on each item. The result of this situation is that an item could be significant in terms of the change in the "agree" responses and not significant in terms of the change in the "disagree" responses. The practical effect of such incongruity would show up in the reporting of FEAS data, especially in the CSRA evaluation report, since some programs may report a significant change for an item while other programs might note that there was no significant change. OPM might then be open to charges of inconsistency when reporting findings. One method of dealing with this problem could be to require more detailed reporting of the results, so that reports of any change or difference found to be statistically significant would indicate very precisely that the significance was based only on variation in agree or disagree responses.

In addition, as mentioned in the option, the development of statistical testing of this type will require a fairly large resource commitment. Specifically, special computer files will be devised from both FEAS 1 and 3, containing replicated items. Then, once these files are developed, a special computer program will be written which will allow the insertion of various delta levels and the testing of changes over time and of the various pay category groupings. The resulting printouts will be numerous and will require close scrutiny to determine which items are significant for both agree and disagree responses, which items are significant for either agree or disagree, and which items are not significant, for each of the delta levels chosen. The amount of time required to obtain and review the printouts probably will involve several staff weeks, at a minimum.

STATEMENTS OF GEORGE HOBT, DIRECTOR OF PAY AND CLASSIFICATION, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES; SAUL S. STEIN, DIRECTOR OF RESEARCH AND EDUCATION, METAL TRADES DEPARTMENT, AFL-CIO; DAVID GUSKY, LEGISLATIVE DIRECTOR, NATIONAL FEDERATION OF FEDERAL EMPLOYEES; LOUIS ELESIE, DIRECTOR OF THE INDUSTRIAL DIVISION, LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO; AND EDWARD MURPHY, GENERAL COUNSEL, NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

Ms. OAKAR. Our next witnesses are a panel: Mr. George Hobt, the director of pay and classification of the American Federation of Government Employees; Mr. Saul S. Stein, director of research and education, Metal Trades Department, AFL-CIO; Mr. David Gusky, legislative director, National Federation of Federal Employees; Mr. Louis Elesie, director of the Industrial Division, Laborers' International Union of North America, AFL-CIO; and Mr. Edward Murphy, general counsel, National Association of Government Employees.

Gentlemen, I thank you for your patience and thank you very much for coming today. You were all at the meeting with Dr. Devine concerning his interpretation of the bill, and I would like to ask you a little bit about that meeting.

Mr. Hobt, we will begin with you. Thank you very much for appearing today.

STATEMENT OF GEORGE HOBT

Mr. HOBT. Thank you, Madam Chairman. I have a prepared statement. I would like to read that statement.

I am George Hobt, director of pay and classification of the American Federation of Government Employees [AFGE]. AFGE, as the largest representative of both blue collar and white collar Federal employees, welcomes the opportunity to appear today and to present our views on the events leading up to, during and subsequent to Office of Personnel Management Director Donald Devine's meeting on the morning of May 22, 1984.

We very much appreciate the subcommittee's timely and expeditious investigation of what has been reported to have been a deliberate attempt by OPM to use the power and official labor relations channels of its office to deliberately mislead and divide the unions and others in an effort to thwart legislation dealing with the question of pay equity in the Federal Government.

Early in the morning of May 21, 1984, members of my office began receiving reports of an "important" meeting dealing with the Federal classification systems to be held at OPM the next morning, Tuesday, May 22. We first thought our invitation to this meeting had been misrouted or was lost somewhere in the normal distribution channels or through some oversight we had not been invited. By noon Monday and several phone calls later, it began to become clear there was no oversight or lost invitation, it was by then obvious that AFGE and several to the other large Federal unions had not been extended an invitation to this meeting.

By this time, I had obtained a copy of the invitation sent to the Metal Trades Department of the AFL–CIO and I placed a call to Director Devine at the number shown in the mailgram. When I asked to speak to Director Devine, the person taking calls informed me, "The Director was in a meeting." I then asked to speak to Pat Korten and was told, "He was out, could I leave a message." When I said I was calling about the Tuesday meeting, she said, "Oh, let me check my list." She left the phone and came back a moment or two later and said, "The Director will call you when he gets out of the meeting."

By 2 p.m., no call had been received and I returned a call to that same number and again asked to speak to Mr. Korten. He came on the line and asked how I was and what he could do for me. I told him I was somewhat confused as we had heard rumors of an important meeting Tuesday and for some reason we had not received an invitation. He said that he had not worked on the list, staff had done that, he did not know that the Metal Trade workers and NAGE were on the list, but he thought it had been limited to those that were representatives of predominantly blue-collar workers and asked whether AFGE was not predominantly a white-collar union.

I interrupted him at this point and said, "Wait a minute, Pat. We represent more blue-collar workers than all of those other unions put together and I can't conceive you would have a meeting of this importance and not invite AFGE."

We talked a little further and he said he would check with Don and call me back.

At approximately 4:10 p.m., my office received a call from Mr. Korten. I returned that call a few moments later and he told me "Don just stopped in for a moment. He was on his way to a meeting at the White House, but he has no problem with your attending and would welcome your input."

At 11 a.m., the morning of May 22, most of the participants from the labor organizations had assembled at the executive conference room at OPM headquarters at 1900 E Street. At approximately 11:10 a.m., Director Devine came in alone, then went out for a few seconds and came back in accompanied by Mr. Korten.

He first introduced himself and then asked everyone else to do the same. Following the introductions, he then, with the aid of an overhead projector and several transparencies, began a presentation of the makeup, pay structure grades, population and classification systems of the two major Federal systems; that is, the General Schedule and Federal Wage Systems.

As he proceeded through his presentation, he kept referring to legislation that would force him to combine or merge these two separate and distinct systems and to his opinion that the factor evaluation system used for classifying most of the General Schedule positions was a far more precise system than that used for classifying blue-collar positions and that if this legislation were enacted, he would be forced to classify all jobs, both blue and white collar, under the FES system.

He had a slide of one chart comparing two pyramids, one for each system side by side, and another with arrows showing how four blue-collar jobs would decline to what he purported to be the proper lower GS levels under this merger. One example at the top

of the list showed a sheet metal worker going from a pay level of WG–10 to a pay level of a GS–9 nurse, a reduction in pay of several thousand dollars.

He also expressed several times that this legislation forcing him to combine and evaluate all positions under one system allowed him only 7 months to do so. It was at about this point, well into the meeting, that it first became clear he was talking about the pay equity or comparable pay for work of comparable value legislation. We then objected, that if this is what he wanted to discuss, then why didn't he let us know and we would have been much better prepared to discuss that subject. As it was, no one at the meeting, including Mr. Devine, had a copy of the latest legislation with them.

He then sent out for a copy of H.R. 5680 and then a long give-and-take discussion and debate ensued on what the bill requires or didn't require. Throughout the discussion, Director Devine complained about the mere 7 months he would have to complete this merger and evaluation and the dire consequences it would have for blue-collar employees. He made a number of statements in support of these complaints such as:

"I won't be here forever. I will always be in politics, but you people will still be here and will have to face this problem with your people."

Every time we would counter with our understanding of the legislation or attempt to allay some of what we thought at the time were his genuine concerns, by statements such as:

If 7 months is too little time, how much do you need?

The bill doesn't require you to merge the systems or to identify all wage disparity, only that which is or could be as a result of discrimination.

There is pay inequity in both systems; how would merging them solve that?

The mention of prevailing rate in the legislation is only to clarify that the comparison of jobs be in the same system and at the same pay base.

He would return to his research and analysis of the court cases and the literature that he said always compared a white collar female occupation with a blue-collar male occupation and his perception of what a massive, complex and damaging task of the bill would require.

As the discussion ended and the meeting closed, I asked if we could have a handout or a copy of the transparencies used for his presentation. He hesitated a moment, and then very firmly as he exited said, "No."

Discussion of this meeting with some of the other unions later that day revealed that generally we all shared the same views.

Director Devine was adamantly opposed to the legislation and we felt he was overreacting as to what it would require.

While we all felt he had played some little game with who was originally invited, I think throughout the meeting and shortly after at least we all gave him credit for being sincere in at least some of his concerns.

The release the next day, however, of the newspaper report of the Byrnes memo I think removed any doubt from our minds as

the real reasons behind the original structure and the purpose of this meeting.

I will dispense with that and I would like to add this to the prepared statement: I avoided in the prepared statement any specific reference to the Byrnes memo. I guess from the outset it was a little hard for me to comprehend or believe that somebody could write such a memo and even beyond that that somebody would try to implement it, and I think the past testimony over the past hour and a half or so has already clarified or removed any doubt as to that point.

I think that we are all appalled—I think you said that, Madam Chairman—that somebody would go to this extent. I think it is a sorry commentary on our system, that we have to scrape that far on the bottom of the barrel or this administration is so morally bankrupt to come up with an individual in a position of responsibility that would propose destroying or damaging the pay systems and the livelihood of 2 million Federal workers all in a ploy to defeat a piece of legislation that represents a first step in attempting to provide a fair day's pay for a fair day's work for the 45 million working women in this country.

The kindest thing I could say about Mr. Byrnes is my mother used to tell me that nobody is worthless; they can always be used as a bad example. Mr. Byrnes, at least in my view, I think he has done a commendable job of clarifying that for everyone, but this is a tragic example of what can happen when you get politics too deeply in the Government.

I don't see how anybody could come up with such a dumb idea and be dumb enough to put it in that memo. The arrogance shows and the worst thing would be to attempt to implement and so misjudge the solidarity of Federal unions and unions in general. We may not be the smartest people in the world, but we didn't just come into this town on a load of squash either, and the whole thing has been a puzzle.

We appreciate the opportunity to appear and appreciate what you are doing in looking into this difficult problem. It is a real tragedy for all of us that it had to occur.

With that, I would defer to one of my colleagues and be glad to answer any questions that you might have later.

Ms. OAKAR. Thank you very much. We will ask questions, if you don't mind, after the other panelists have completed their statements.

Mr. Saul Stein, who is the Director of Research and Education for the Metal Trades Department of the AFL-CIO, thank you for appearing.

STATEMENT OF SAUL S. STEIN

Mr. STEIN. Thank you.

Madam Chairman, my name is Saul S. Stein. I am director of research and education for the Metal Trades Department, AFL-CIO. Our department is made up of 21 international unions with approximately 5 million members. We represent, through our various local and district councils, employees in the skilled crafts of private shipbuilding companies, as well as Federal workers employed at

U.S. Naval shipyards, NASA installations, and other Federal establishments.

I am here at the invitation of the subcommittee to testify on the circumstances leading up to our attendance at a meeting with Mr. Donald Devine, Director of the Office of Personnel Management on Tuesday, May 22, 1984. The department was invited to the meeting by a mailgram received on May 17, 1984, to discuss issues involved in the possible restructuring of the Federal pay systems. Other affected unions also attended the meeting.

I represented the Metal Trades Department at this meeting, along with a colleague, B.W. Hensley, the department's general representative, since our president, Paul J. Burnsky was conducting a meeting of the department's executive council that day.

Instead of the expected discussion of OPM "blue-collar" pay plans, the meeting was centered on an OPM attack on what we subsequently learned was the Oakar bill, H.R. 5680, the Federal Pay Equity and Management Improvement Act of 1984. OPM Director Devine and other officials present raised the possibility that if the pay equity study provisions of the Oakar bill were passed, it would somehow result in the eventual integration of the white collar classified pay structure and the blue-collar system.

In such an event, it was suggested, it might result in the downgrading of blue-collar pay rates for the skilled craftsmen in traditionally male-dominated jobs in Federal shipyards and similar installations.

Obviously, there are great differences between the white-collar classification system that covers a vast majority of Federal employees in clerical, administrative and a variety of professional positions and the blue-collar wage structure that includes the dozens of skilled crafts also necessary to the conduct of other functions of the Federal Government. Both types of pay system have evolved over many years and are tailored to the realities of compensation being offered in the private sector for comparable work. Certainly, there are inequities in both the white collar and blue collar systems, often lagging far behind salaries and hourly wages being paid in private sector counterparts. Such inequities must be addressed and corrected.

In fact, it should not take a congressional mandate to undertake such a pay equity study. If there is discrimination within the pay structure administered by OPM, then they have a responsibility to take whatever action is required to correct the situation without resorting to integration of both pay systems and any reduction of wages.

We do not believe that equity can be achieved in either case by setting one group of Federal workers against another—men versus men, women versus women, or women versus men. The labor movement has long been in the forefront in the fight for equal pay for work of comparable value. No individual employee or group of employees in the Federal Government or in the private sector should be the victim of discriminatory pay treatment.

At the last convention of the Metal Trades Department in September 1983, we unanimously adopted a resolution entitled "Equal Pay for Work of Comparable Value." The resolution reads as follows:

Resolved, that the Metal Trades Department call on its affiliates to work to attain equity of jobs of comparable worth in all bargaining units by: One, working through contract negotiations to upgrade undervalued job classifications, regardless of whether they are typically considered "male" or "female" jobs; two, initiating joint union employer pay equity studies to identify and correct internal inequities between predominantly female and predominantly male job classes, such studies to specifically exclude reliance on market rates which reflect societal discrimination and not the value of the job; and be it further

Resolved, that the Metal Trades Department urge its affiliates to recognize fully their obligations to treat job inequities resulting from sex, age, and race discrimination like all other inequities which must be corrected and to adopt the concept of "equal pay for comparable work" in contract negotiations; and be it finally

Resolved, that the Metal Trades Department will take all other appropriate action to bring about true equality in pay for work performed and will work to remove all barriers to equal opportunity for women.

We reject the Machiavellian game of OPM bureaucrats to use the Federal Pay Equity Study provisions of H.R. 5680 for partisan political purposes in this election year. We in the labor movement are very familiar with the old "divide and conquer" tactics of employers—private or Federal—in which they seek to pit one group or class of workers against another in an effort to break their union.

It is not surprising that this administration would resort to such shoddy tricks in view of their unbroken record of contempt for the civil service merit system, their disdain for the ability and contributions of Federal employees, and their subversion of the blue collar wage structure by unnecessary contracting-out policies. The Reagan administration has systematically worked to undermine, with the goal of eventual destruction of the labor management relations system within the Federal establishment, just as it has sought the same objectives in the private sector by stacking the National Labor Relations Board with antiunion political hacks.

No amount of election year political chicanery or camera-ready rhetoric by Mr. Devine or other administration appointees, however, can fool those who labor for the Federal Government—whether behind a desk in an executive agency or behind a turret lathe in a Navy shipyard. We are confident that these clumsy efforts to set our union brothers and sisters against each other and their unions against their neighbors' union will surely fail.

Madam Chair, at this point I refer to the memorandum dated May 14, 1984, from Mr. James L. Byrnes, OPM's Deputy Associate Director for Staffing, to OPM Director Donald J. Devine that spells out this devious plan for "divide and conquer."

He says, in part:

The political possibilities of this situation should not be underestimated. By doing job evaluation across clerical and blue collar occupations, a comparable worth study would immediately divide the white collar and blue collar unions. It would also directly affect the private sector unions. We could create disorder within the Democratic House pitting union against union and both against radical feminist groups.

I submit that this obvious political activity on the part of Mr. Byrnes, a high-ranking official of the Office of Personnel Management, is a clear violation of the Hatch Act. The conduct of Mr. Devine in pursuing this same political activity at the May 21 meeting is likewise, in my judgment, a Hatch Act violation. He has no such "Devine right." We, therefore, demand that both Mr. Devine and Mr. Byrnes resign their positions of trust.

If they were working for the Reagan-Bush Reelection Committee or the Republican National Committee, their highly partisan actions would be appropriate. But as high public officials paid by the American taxpayers, including those Federal workers whom they seek to exploit, they have forfeited their right to hold such positions within the Federal Government.

We have received a monthly publication from our colleagues that are employed by the Department of the Navy at the Philadelphia Navy Shipyard who recently were visited by Mr. Devine. We would like to quote an article in their monthly bulletin to the committee for the record.

Ms. OAKAR. Without objection.

Mr. STEIN. It is entitled "Dr. D comes to PNSY."

On April 24, 1984, PNSY was graced with a visit from the Office of Personnel Management Director, the infamous Dr. Donald J. Devine. During the course of the day, Dr. Devine met with all employee organizations afforded exclusive recognition, along with representatives from management and representatives from corporations in the private sector (Boeing, Penn Ship, Scott Paper).

This being an election year, Dr. Devine must feel compelled to try and justify the attack of the present administration on the rights and benefits of all Federal employees and retirees. The doctor futilely tried to gain our support and convince us that his policies will be of a benefit to us and to the country. How Dr. Devine, a man of superior intelligence, expected to convince us that by destroying our retirement program, bringing Federal employees under social security, denying us our raises, constantly chopping away at our health benefits and raising their costs, eliminating the COLA for Federal retirees, and implementing OPM's "pay for performance" rules will be of benefit to Federal employees and to this great country of ours is well beyond my comprehension.

I am sure the Metal Trades Council got their point across to Dr. Devine when he was told that rather than accept the policies of the present administration, it would be much more advantageous to Federal employees just to change the administration.

Madam Chair, I appreciate the opportunity to appear before this subcommittee today. It is not often that I do this in my profession as a representative of the Metal Trades Department, AFL–CIO, but I can tell you it has been a distinct pleasure to be here and hear the responses from the individual that represented OPM this morning. It reminds me of the years I have been in the DC area with the Metal Trades Department, when you hear this bureaucratic agency rhetoric, you get the feeling something is slipping away from you somehow.

Again we appreciate the opportunity to testify and we are available for any questions that you may have.

Ms. OAKAR. Thank you very much, Saul. We really appreciate your being here. I do have some questions for you if you can stay.

Our next witness is Dave Gusky, the legislative director of the National Federation of Federal Employees. Thank you very much for being here.

STATEMENT OF DAVID GUSKY

Mr. GUSKY. I do not have a prepared statement, however, I will say that my recollection of the events leading up to the May 22 meeting and the actual substance of the meeting are consistent with those described by Mr. Hobt.

I would like to point out that NFFE, which is the second largest union representing Federal employees, was also left off the list of

invitees to that meeting and it was only after a series of phone calls between my president, Jim Peirce and Mr. Korten that we received an invitation. Again, I will associate myself with the remarks of Mr. Hobt.

Ms. OAKAR. Thank you very much, Dave.

Our next witness is Mr. Louis Elesie, the director of the Industrial Division Laborers' International Union of North America, AFL-CIO. Thank you very much for being here.

STATEMENT OF LOUIS ELESIE

Mr. ELESIE. I am Lou Elesie, the director of the Industrial Division. Our international union represents approximately one-half million workers throughout the country in just about every classification that you can name in our society. We have a public employment membership of about 60,000, which includes not only Federal employees, but State, county, city, township, and public authority workers.

I am concerned, seriously concerned, that we—and I have found this out since attending this hearing—I am seriously concerned that we have people working for us in the Government in highly responsible position such as Mr. Byrnes and other coworkers of his in OPM in regards to the pay equity issue being discussed here today. Here is a person in a highly responsible position working on a very important issue, and he told us today that he was not aware of the action on the pay equity bill and the new bill that was presented.

He also, or his counterparts in his office, did not know that the AFGE and the other Federal unions represented blue-collar workers and if this is all true, I believe that the people I represent as WG-5's blue-collar workers, making approximately $15,000 a year, deserve as much pay, if you are comparing making comparable worth, as the $59,000 that Mr. Byrnes makes, and if they do go ahead with their study, I would like for Dr. Devine to consider that as comparable worth.

I was invited to the meeting by Dr. Devine, also as Saul Stein was invited, through the Metal Trades by a mailgram dated May 16. There was no indication in the mailgram that we were going to discuss the pay equity issue or anything else. It just merely said that he had some ideas about new pay systems and classifications. And I was very surprised when I got there to hear Mr. Devine say that he was intending to merge the two systems and come up with new classifications under the GS pay classification system.

This really bothered me, because we represent the blue-collar workers, and I knew that the procedure used to arrive at the wage schedule for the blue-collar workers could not in any manner or form be fair and just if they were to use the system that they used for the white-collar workers, and I made this known to him, and I pointed out on his visual aid presentation that the blue-collar workers have reached their wage structure through years and years of survey and history in private industry and that if they were going to overnight change the procedure in classifying a blue-collar worker using the same critiera that they use for white-collar workers, that the criteria used in the white-collar jobs of 2 per-

cent—and I made notes at the meeting—and on his presentation, it showed that there was only 2 percent of a factor evaluation given for physical effort and working conditions to evaluate the GS job, and if this procedure was used in blue-collar jobs, that would destroy their factor evaluation, because probably 60 or 70 percent of the factor evaluation for blue collar is considered for the physical effort and the working conditions, and he kept repeating that he has to use the present GS system because he only has 7 months to come up with a plan and that is the only thing that he could really use and come up with in that 7 months.

He agreed that it might be a bad idea, but that is what he was going to do because it was the only thing that he had to do in the 7 months.

I was not aware at the time that there was a memo. I wasn't aware at the time that the other unions were not invited to the meeting like we were, and I am surprised at some of the things I am finding out here at this hearing.

I can, in retrospect, thinking back to what happened at that meeting in his office, I truly say that I think he was truly trying to pit us blue-collar unions against the white-collar unions. But I can say, although we fight many times against each other, I can truly say that on this issue we are going to be unified.

Ms. OAKAR. Thank you very much.

Our last witness is Mr. Ed Murphy, who is the general counsel of the National Association of Government Employees.

STATEMENT OF EDWARD MURPHY

Mr. MURPHY. Good morning, Madam Chair, I am Ed Murphy, legislative counsel with NAGE. We are an affiliate of the Service Employees International Union, AFL-CIO. Approximately 2 months ago in testimony before this committee in support of this legislation labor asserted that pay equity laws had been frustrated by the Reagan administration, particularly by EEOC and OPM.

This morning we come before the subcommittee to report on a calculated attempt by OPM to use its office for partisan political activity by manipulating the pay classification system and attempting to mislead segments of the labor community, in an eleventh hour move to gain our support to lobby against the committee markup on the pay equity legislation.

We have provided the committee with a statement of some of our relevant recollections of that meeting. I would like to briefly highlight and comment on these matters at this time.

The OPM meeting on May 22 was a carefully crafted scheme to mislead blue-collar unions into lobbying against the pay equity legislation markup. First OPM's mailgram was designed to mislead the unions as to subject matter of the meeting. Nowhere does this mailgram refer to the pay equity legislation which was the subject of the meeting's discussions. Rather the mailgram discusses a fictitious major reform which allegedly Dr. Devine was suggesting which would integrate WG and GS pay classification systems.

Second, we did not receive the mailgram until Friday, May 18, in fact Friday afternoon, which requested attendance at the meeting on the following Tuesday. This, of course, limited our opportunities

to discover the true purpose of the meeting and also limited our opportunities to prepare for that meeting. Obviously you cannot prepare for a meeting, the topic of which you are not aware.

More significantly we think this meeting was scheduled the day before the full committee markup. This was also some 5 months after the introduction of the pay equity bill and some 2 months after congressional hearings on the matter. In explaining the date of this meeting, Mr. Devine could only respond that he had just received a copy of the bill.

The timing of this meeting was no coincidence. OPM intended that its misleading, false predictions would frighten blue-collar unions into hasty action which undoubtedly would have become a centerpiece in the OPM press release proselytizing a white-collar/blue-collar split on the bill.

Once gaining the unions' attendance at this meeting by these misleading devices Dr. Devine repeatedly misinformed as to the effects of the bill. Dr. Devine repeatedly insisted that the legislation would require him to merge the blue-collar and white-collar pay systems which could only result in the downgrading essentially of blue-collar pay standards.

Clearly Dr. Devine hoped that with the short misleading notice period provided the unions, that these unions would be tricked by the cries of doom and gloom into lobbying against the bill in markup the following day. It is further obvious that this meeting was scripted by a May 14, 1984 memo from James Byrnes.

Madam Chair, the NAGE is deeply concerned about the propriety of this incident. OPM considered, accepted and initiated a plan to manipulate the pay classification system for partisan political activity and to mislead the private sector unions into lobbying Congress. These actions show OPM's utter disdain for Federal employees, unions and their own statutory mission. Action needs to be taken to address this impropriety. Federal workers deserve an OPM director who regards his statutory duty seriously.

NAGE applauds the chair for bringing public attention to this incident. We thank you again for this opportunity to present our views, Mr. Chairman.

[The statement of Mr. Murphy follows:]

TESTIMONY OF
THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES

TO THE
SUBCOMMITTEE ON COMPENSATION AND
EMPLOYEE BENEFITS

The National Association of Government Employees is an affiliate of the Service Employees International Union. We are pleased to have this opportunity to present our views on the May 22, 1984 meeting at the Office of Personnel Management.

On Friday, May 18, 1984 we received in the afternoon mail, a Mailgram addressed to President Kenneth T. Lyons from Donald J. Devine (Attached).

The Mailgram invited NAGE to what was described as a very important meeting scheduled at OPM on the following Tuesday. The purpose was described as a discussion of a major reform Dr. Devine would propose to integrate the Wage Grade (WG) and General Schedule (GS) Classification systems. No other details were provided in the telegram, nor had we received any phone calls, or other communications from OPM describing in more detail the nature or purpose of this "very important meeting."

On Monday morning we made a series of phone calls to the labor community and to congressional staff in an attempt to gain further insight into the purpose of the meeting.

No one who we talked to had been briefed in any more detail. We also called OPM at the number given in the Mailgram and spoke with two individuals, neither one of whom allegedly knew anything about the meeting beyond the contents of the telegram. I finally spoke with Patrick Korten the following morning, and was advised that Dr. Devine would discuss a plan "floating" around the hill which would merge the GS and WG pay systems.

At the meeting there were representatives from AFGE, NFFE, Metal Trades, Laborers International, Teamsters, and Graphic Arts, plus Dr. Devine and Patrick Korten. The meeting lasted about an hour and these are some of my relevant recollections.

Dr. Devine opened the meeting with a chart comparing blue collar and white collar pay classification systems. He

indicated that the WG pay system was less formal then the GS system, and had been arrived at only after substantial discussions with the unions. By comparison, Dr. Devine indicated the General Schedule is highly formalized with grades based on specific characteristics. I remember Dr. Devine indicating that if blue collar positions were analyzed under white collar classification standards that the blue collar jobs would not be able to justify their current grades. Dr. Devine indicated that there was a bill on the hill (HR5680) which would require him to merge the blue collar and white collar pay classifications systems and that the only manner this could be accomplished was by using the FE.S as the standard so that if this bill were passed it could only result in blue collar grades being, in essence, downgraded. Dr. Devine repeated numerous times that the study under the bill could only be accomplished by using the factor evaluation system as a basis, and that this would have negative consequences to the blue collar workers.

It became apparent that Dr. Devine was attempting to mislead as to the provisions of the bill. From the totality of the circumstances, it became obvious that the purpose of these actions was to influence the "Pay Equity Bill" markup on the following day consistent with this analysis I recall objecting several times to OPM's failure to notify us of the true purpose of the meeting. I recall objecting several times to Dr. Devines analysis of the bill, specifically asserting that OPM would only be empowered to study and report on discriminatory wage setting practices, and had no power to integrate the two systems. I further recall asserting that opponents of pay equity had frequently attempted to split blue collar and white collar unions and this was OPM's purpose here.

In response I recall Dr. Devine indicated that he had only received a copy of the bill recently. I also recall him saying something to the effect that politics was his life, and that he was able to play the political game. He also warned that he would not be OPM Director forever, but that the blue collar unions

would have to live with the results of the bill forever.

Dr. Devine was not to be discouraged from his position and continued to insist that the bill would have damaging effects on blue collar workers. He further asserted that the Committee had added language specifically referencing the prevailing rate employees which was evidence of their intent to compare the two systems, which he again asserted would be done using the factor evaluation system. After repeated complaints that a copy of the legislation in question was not available for examination Dr. Devine sent for a copy of the bill. When he received the bill; however Dr. Devine did not share the copy with any labor representatives.

The representative from Laborers International asked Dr. Devine something to the effect of how could he destroy what it took the blue collar working person so long to develop. Dr. Devine, answered in effect that he did not support the bill, but that unless something was done to defeat the bill he would be forced into that position.

As I recall, the meeting was concluded by Dr. Devine reminding us that the bill was on a fast track, with a mark-up scheduled for the following day, and urged consideration of the serious effects that the bill would have for blue collar workers.

The meeting of May 22, 1984 was scripted by the James Bynnes May 14, 1984 memo. It's purpose was to mislead the blue collar unions about the effects of the "Pay Equity Bill" so as to influence the pending committee mark-up.

If Dr. Devine's stated desire to communicate with the unions his concerns about pay equity were legitimate, then those views should have been raised earlier so that those unions unfamiliar with the legislation would have ample opportunity to prepare a response. Instead Dr. Devine waited until the day before the Committee mark up so as to preclude close scrutiny of his ideas. Dr. Devine also disguised the stated purpose of the meeting in his Mailgram

so as to prevent adequate preparation.

Madam Chair the NAGE is deeply concerned about the propriety of this incident: It demonstrates OPM's eagerness to utilize it's official office for partisan political activity. It also shows their utter disdain for federal workers, and unions, who are mere pawns in OPM's political game. Dr. Devine is so concerned with re-electing President Reagan that he is willing to subvert the new classification system he is sworn to uphold. This incident demonstrates OPM's willingness to consider, and initiate a plan to manipulate the pay classification system for partisan political activities. Action needs to be taken to address this impropriety. Federal employees deserve a Director who regards seriously his statuatory mission. The NAGE thanks you for the opportunity to appear and give testimony on this matter.

37-189 O - 85 - 5

DONALD J DEVINE
1900 E ST N W
WASHINGTON DC 20415 1699

Western Union Mailgram

1-127M390187002 05/16/84 ICS WA12139 WSHA
06308 PLTN VA 05/16/84

MR KENNETH T LYONS PRES
NATIONAL ASSOCIATION OF
GOVERNMENT EMPLOYEES
2139 WISCONSIN AVE NW 3RD FL
WASHINGTON DC 20007

A VERY IMPORTANT MEETING WILL BE HELD ON TUESDAY, MAY 22, 1984, AT 11:00 AM AT THE OFFICE OF PERSONNEL MANAGEMENT TO DISCUSS A MAJOR REFORM I HAVE REGARDING PREVAILING RATE CLASSIFICATION STANDARDS. I WILL OUTLINE A PLAN TO INTEGRATE WAGE GRADE AND GENERAL SCHEDULE CLASSIFICATIONS SYSTEMS. YOUR ADVICE AND COMMENTS ARE URGENTLY SOLICITED. THE MEETING WILL BE HELD IN MY EXECUTIVE CONFERENCE ROOM, ROOM 5A06, 1900 E STREET, N.W., WASHINGTON, DC. CALL ME IF YOU CANNOT ATTEND AT 202-632-0150.
DONALD J. DEVINE DIRECTOR U.S. OPC F PERSONNEL MANAGEMENT
WASHINGTON DC 20415

(ANS NUMBER 0-09-01-015222)

20:17 EST

MGMCUMP

Ms. OAKAR. Thank you very much for your statement, Mr. Murphy.

Gentlemen, I realize that all of you don't perhaps have a copy of the memo. We would be happy to give you one. Saul, I know you quoted from it so you must have a copy. I would just like to ask based on the testimony you have heard today plus the meeting that you had, do you believe that there was political involvement on the part of Dr. Devine and Mr. Byrnes with respect to not only the memo but the meeting in which Dr. Devine brought you forward to discuss rather irresponsibly, what the bill does and doesn't do.

But do you believe there was political involvement on the part of Dr. Devine and Mr. Byrnes?

Mr. HOBT. No doubt in my mind. I think Mr. Byrnes made that very clear in his testimony.

Like you, I couldn't follow the line of—"This is a policy option." I don't see any other options to start with. I am sure that—maybe I didn't hear all that clearly but I didn't hear there were any other options presented. The whole confusion and so on as to who was invited and who was not invited and timing of it was not clear until this memo became known the following day.

Ms. OAKAR. You yourself have called for their resignation based on the fact that they violated the Hatch Act, is that correct?

Mr. HOBT. I didn't call for the resignation of——

Ms. OAKAR. Sorry.

Mr. HOBT. Not in the statement but I was going to comment on that, if these two Reagan political groupees have a shred left of what they hold so important, political awareness, I think that they would realize that they are a total embarrassment to the administration. This has been a major affront to organized labor and an absolute insult to the working women in this country. I would think they would realize they both at this point are severe political liabilities and I would think they would be drafting resignations and hopefully they can do a better job on those documents than they did on these memos and hopefully they can do a better job of implementing them.

Ms. OAKAR. Thank you.

Mr. Stein.

Mr. STEIN. Madam Chairman, the memorandum speaks for itself. It is clear as to the intent of the memo and to us. You need not have a college degree or anything of that nature to understand the implications of this memorandum. Just like the rest of our colleagues here, we were unaware of the memorandum until the following day or two and once this was read by our department, of course the lid blew off and I made the statement to my colleagues, "Well, there was an attempt to sandbag the unions at this meeting."

Now, with regard to the action taken by your subcommittee, Madam Chairman, which is commendable, it brings me back to the people we represent throughout the Federal service both blue collar and white collar, whether in professional jobs, white collar jobs, to the lower levels of these people, Madam Chairman, if a document of this type was written by an employee of the Federal Government at the lower level of employment they would never have the opportunity to stand before a committee to plead their case.

They wouldn't have but time to gather up their tools or clear their desks. They would be removed from their job immediately and then be told go get an attorney and you can defend yourself later.

It is as simple as that. Those that are in this room here, I am sure there are enough present to understand what I am talking about. It is the unfairness of the system where two gentlemen of such position in the Federal Government can attempt a devious scheme of this sort and be treated this way. They should be treated exactly like any other Federal employee of the Government, fire them and let them go to court afterwards.

Thank you, Madam Chair.

Ms. OAKAR. Mr. Byrnes makes more than twice as much as the average male in the Federal system and more than three times more than the average female. He has worked far less for that salary than most people in the Federal system.

Mr. Murphy.

Mr. MURPHY. I just want to say that the circumstantial evidence here that Dr. Devine was attempting to get the unions to lobby Congress is just overwhelming. He had as I think I said in my remarks, something like 3 months since the bill was introduced. Is he to seriously say that he waited to express his concerns, until coincidentally the day before the full committee marked it up? I think the evidence is overwhelming. Just look through the memo language. That Mr. Byrnes can come before you and say he is only suggesting an option is just absolutely lacking in credibility.

On page 2 I think he uses the language, "We could create disorder within the Democratic House," not a liberal Democrat could create disorder but "We could create disorder." I think this memo scripted Dr. Devine's actions at that meeting. His comments were directed toward blue-collar workers and blue-collar unions. He specifically was looking at them and addressing them and I think there is no doubt about his intentions.

Ms. OAKAR. So you think he was trying to carry out the memo?

Mr. MURPHY. Absolutely.

Ms. OAKAR. Mr. Elesie, did Dr. Devine state or indicate that H.R. 5680, the pay equity bill, would require that the systems be combined?

Mr. ELESIE. Yes.

Ms. OAKAR. You of course realize that there is absolutely nothing in the bill that says that in any way, shape or form.

Mr. ELESIE. At the time of the meeting I did not even have a chance to read the bill. I did not have the bill in my possession.

Ms. OAKAR. You didn't have the bill because he never told you that it was the subject of the meeting?

Mr. ELESIE. Correct.

Ms. OAKAR. And are you aware of the section in the bill which the Chair purposely amended, it was my concept and our idea, that nothing in this section shall be construed to authorize any action which would result in a reduction in the rate of pay for any position—in other words, that no study could recommend the lessening of pay for any employee. I agree with Mr. Stein, that when you look at the whole picture we know through studies that the Federal employees are underpaid on an average of 21 percent already, so

for some individuals there is a double whammy if there is any form of discrimination.

Did he in any way ever tell of that section of the bill; that no pay could be decreased based on the study—of course this is only a study, not a recommendation for changes and so on, that the study would come out first and perhaps legislation might have to be introduced to change certain categories, et cetera—did he in any way mention that that was a section of this bill?

Mr. ELESIE. No, in fact he indicated just the opposite with his presentation. He had these pyramids drawn, one indicating GS job classifications and the other indicating wage grade classifications with the grade of the three different classifications on each side, the salary of that classification on each side, and then arrows pointing downwards from the wage grade pay rate to the GS pay rate which was lower, indicating that there would definitely be a reduction in wages.

I have a copy of my notes which shows these pyramids since he wouldn't supply us with a copy of his presentation. I would be happy to supply this to the committee.

Ms. OAKAR. Without objection, we would like to submit your notes for the record.

[The information follows:]

Donald Devine - Labor Mtg. - 5-22-84
OPM Bldg.

Present were:
Devine
Devine's Asst.

AFGE
NAGE
NAFFE
SEIU
MTD
TEAMS
LIUNA

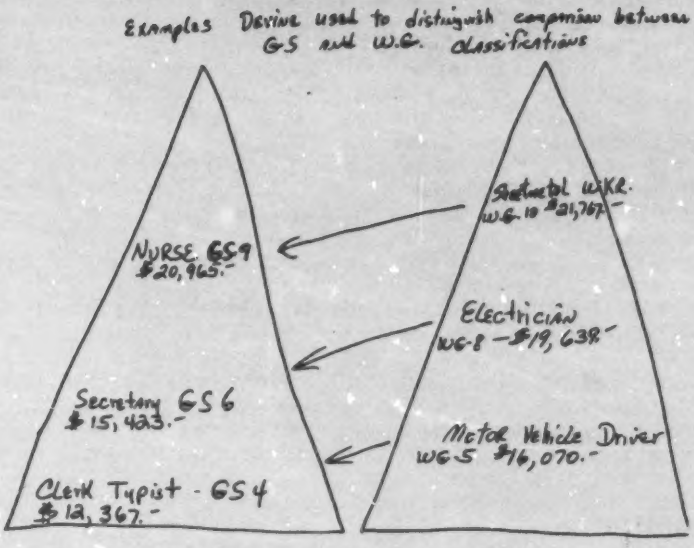
W.G.

WG Peaks at the G.S. 14 Step 4 Level
49 Grades
15 WG -- 15 WL -- 19 Supvs
5 steps in grade
450,000 W.G. employees
39 Key Ranking Jobs
(whole job scoring approach)
4 Factors (Cumulative)

G.S.

15 Grades - 10 steps each
1.4 million G.S. emp.
Factor Evaluation System
Knowledge 40%
Controls/Guidelines 30%
Complexity/Scope 20%
Contacts 8%
Physical Effort/Conditions 2%

There is a bill in Congress to make one pay grade system. Devine said if this happens his guess would be that the G.S. system would be used. Study showed disparities in G.S. Categories


Examples Devine used to distinguish comparison between GS and W.G. classifications
NURSE GS9 $20,965.-
Secretary GS6 $15,433.-
Clerk Typist - GS4 $12,367.-
Sheetmetal W/KR. W.G.10 $21,767.-
Electrician WG-8 - $19,638.-
Motor Vehicle Driver WG-5 $16,070.-

HR 4599 New # HR 5680

This bill is being worked up tomorrow

Senator Hart said, to establish the system and use it as a model for private industry.

Devine said he interpreted the bill to mean setting specific standards

Devine said the bill requires him to complete the goal in 7 months.

Mr. STEIN. If I may, in order to clarify what Mr. Elesie has said, Mr. Devine was told following his lengthy rhetoric about the integration of the systems, so forth and so on, and he was doing this in accordance with the intent of the law and he was authorized by law to conduct this study, and again to reiterate what Mr. Hobt says, the 7-month period of time was bothering him that it wasn't enough time to conduct a proper study, therefore the recommendation would come forth to integrate one system into the other.

Now, he was taken to task by my colleague, Ed Murphy here, and told this is not the way we read the law, that his interpretation is incorrect.

Ms. OAKAR. Did he ever tell you he was doing his own in-house study.

Mr. STEIN. I believe there was mention made during the meeting.

Ms. OAKAR. He made the distinction between his so-called study and——

Mr. HOBT. He said his study had been underway 4 months. Also Mr. Murphy pointed out to him, once we got a copy of the bill in the meeting, pointed out the language that would protect the pay, or pay savings, no reduction in pay and like most other comments we made in favor of the legislation he just ignored it.

We also pointed out it was our understanding there would be additional clarification as to what was going to be required of OPM either in the report or in the bill itself, and he just said it is in the report, it is fine, it is going to require me to do it, 7 months to do it, and I am going to do it.

Ms. OAKAR. Some of you testified about the pay equity legislation, but to those of you who didn't and perhaps were not as familiar with the legislation, which is understandable, did he indicate that this legislation, this study was to be done in conjunction with unions and in conjunction with women's groups or that OPM had to supply the data aquired to those parties?

Did he ever indicate that it was not just an individual study that we were asking him to do; that his lack of objectivity perhaps would not permit him to do a fair study—certainly based on these memos, our conclusion or instincts are right about that—did he ever indicate this was a study to be done in conjunction with the unions or women's organizations?

Mr. STEIN. I think the response to that was one word, casually.

Mr. HOBT. One other thing comes to mind, Madam Chair. He did indicate quite a bit as to the candidates or candidates' relatives that testified in support of the bill.

Ms. OAKAR. Excuse me?

Mr. HOBT. He made a point of mentioning the candidates or candidates' relatives who testified in support of the legislation also; or how strong support there was for it.

Ms. OAKAR. Did he mention that the Chair also invited the President of the United States to testify and other members of the administration besides himself?

Mr. HOBT. No, he didn't.

Ms. OAKAR. And that they respectfully declined?

Mr. HOBT. He didn't mention that, that I recall, no.

Ms. OAKAR. Mr. Stein, in your opinion was Dr. Devine personally lobbying for defeat of H.R. 5680?

Mr. STEIN. Definitely. Definitely, Madam Chair, no question about it in my mind.

Ms. OAKAR. Do you believe he was asking you and others to lobby against the passage of H.R. 5680?

Mr. STEIN. That is the impression I got personally, representing the metal trades department; yes, ma'am.

Ms. OAKAR. Mr. Gusky, why do you believe that you and other unions who have so many Federal employees, many of whom happen to be female, were not invited to the meeting initially, that you had to kind of push your way through along with Mr. Hobt?

Mr. GUSKY. Well, I believe Dr. Devine was beginning to carry out the recommendations in the Byrnes memo; that is, to invite blue collar or what he thought were predominantly blue-collar unions to the meeting and to scare the heck out of them over the bill and perhaps create controversy and confusion among the unions.

Ms. OAKAR. So you believe it was a carryout of the memo that suggested to pit one union against the other?

Mr. GUSKY. It appeared that way.

Ms. OAKAR. Is there anything anybody would like to add? Anything you would like to add?

I want to thank all of you for appearing and of course, as you know, based on my own background and my own legislative record, the furthest intent of the Chair would be to pit individuals against each other, particularly the unions and women's groups. This is an insidious calculated political motive in my judgment, and your testimony confirms my belief concerning that meeting and I am very, very grateful that you found the time on such short notice to be here. Thank you very much, gentlemen.

Mr. STEIN. Thank you.

Mr. HOBT. Thank you.

Mr. MURPHY. Thank you.

Ms. OAKAR. Our final witness is Dr. Devine, who is the head of the OPM.

Did you have any questions? I apologize.

Mr. MCCLOSKEY. No, thank you, Madam Chairman.

Mr. BOSCO. No questions.

Ms. OAKAR. Please, Dr. Devine, I did not get any testimony from you, so the Chair would like you to proceed in whatever way is most comfortable.

STATEMENT OF DONALD J. DEVINE, DIRECTOR, U.S. OFFICE OF PERSONNEL MANAGEMENT

Mr. DEVINE. Thank you very much, Madam Chairman. It is a pleasure to be here to discuss an option memorandum that I received and to comment on some of the statements that have been made by the members of the committee and by the panel of union leaders that you had before the committee today. I did not intend to make a statement. Since the original list of witnesses had me on first, the committee in its wisdom decided to first talk to Mr. Byrnes, who works for me, and Mr. Byrnes, I would like to reiterate, was simply doing something that I requested him to do.

As he mentioned, I——

Ms. OAKAR. So you take full responsibility for the memo; is that right?

Mr. DEVINE. Yes, madam.

I have initiated a policy at the Office of Personnel Management that we look at all options. You mentioned you were a teacher. I was a teacher myself. The first law of logical analysis, as I understand it, is that one should look at mutually exclusive and totally inclusive sets of options.

That has been my policy since I entered OPM, and frankly we have received a great deal of recognition and support for opening up the policy process at OPM, both internally and externally, so that we could consider the views of all possible alternatives.

Literally every investigation we do into a problem area deals with all possible options going across all possible spectrums.

In the case of H.R. 4599—and I would like to reemphasize, as Mr. Byrnes did, that his memorandum was addressed to H.R. 4599 and not to any other piece of legislation—we had discussed in several meetings different options toward that bill. We had come really to only one and that was to oppose H.R. 4599. In that context I asked Mr. Byrnes to come up with an option in favor of H.R. 4599. He expressed some reluctance to do so because he couldn't think of any good reasons to support it.

I told him that it is our policy; as close to my recollection, I said to be imaginative, think as a liberal Democrat and in fact I believe that I mentioned, "Think like Mr. Feinstein, be imaginative, try to find some reason why we might support H.R. 4599." His memo was his attempt to follow out my desire.

The memo should make it clear, the option recommends support of H.R. 4599. Mr. Byrnes did not support H.R. 4599. My disposition was not to support H.R. 4599. If you had received a leaked copy of my comments on his option, it was to oppose it. We finally wrote the committee to oppose H.R. 4599 and we also oppose H.R. 5680.

Ms. OAKAR. Would you like to submit for the record your memorandum back to him?

Mr. DEVINE. Pardon me?

Ms. OAKAR. Would you like to submit for the record your memorandum back to Mr. Byrnes in terms of rejecting his memo?

Mr. DEVINE. Certainly we would be happy to do that.

[The information follows:]

United States Government
MEMORANDUM

Office of
Personnel Management

Subject: Pay Equity Bill

Date: 14 MAY 1984
In Reply Refer To:

From: James L. Byrnes
Deputy Associate Director
for Staffing

Your Reference:

To: Donald J. Devine
Director

In reviewing our options on standards setting and job evaluation, it occurred to me that we have not adequately investigated one option. This is especially pertinent now since Bob Moffit tells me there is good chance the House might pass Representative Oakar's Pay Equity Bill.

We know that a "comparable worth" system will not work. We do know, however, that job evaluation systems can be biased to produce the results favored by proponents of comparable worth, i.e., equal wages for male and female occupations. I recently referred to you an article which showed how certain standards could be manipulated so that any job evaluation technique could have male and female dominated occupations paid equally.

If the Oakar Bill passes, it would be a tremendous opportunity for OPM to develop a real comparable worth system, and show how preposterous it would be. The Federal Government's classification systems--which OPM has tried to change for years--are confusing and inefficient in any event, so a little more irrationality wouldn't hurt that much. But it would show a clear picture to the private sector about how ridiculous the concept of comparable worth is, and that in fact it is only job discrimination. It is truly wage-setting by administrative fiat. Only in this case, it would be under your control.

The political possibilities of this situation should not be underestimated. By doing job evaluation across clerical and blue collar occupations, a comparable worth study would immediately divide the white collar and blue collar unions. This would not be limited to those in the Government, although there are a large variety there who also represent outside interests, but it would also directly affect the private sector unions. Since our occupational standards are ofter applied outside Government, private sector unions could not afford to let the Government go too far. The blue collar craft unions would especially be concerned, since they would be the inevitable losers in such a comparable worth adjustment process. Moreover, the unions would be pitted against the radical feminist groups and would further divide this constituency of the left. Rather than allowing Oakar to manipulate the Administration on the gender issue, we could create disorder within the Democratic House pitting union against union and both against radical feminist groups.

This situation presents opportunities that we should not ignore. Of course, it is a dangerous course, but it might change the nature of the whole debate on comparable worth.

5/24/84 Disapproved

Mr. DEVINE. I must say that I am partly at blame, also, for the memorandum being leaked. It should have been kept more confidential, but frankly, since we were all predisposed to oppose H.R. 4599 we didn't exercise the kind of caution that we might otherwise have done. However, it may in fact have served a useful purpose nonetheless.

More hearings have been held. The fact that we are here shows that. It is in fact the case that H.R. 5680 does clear up some of the confusion that existed in my mind as to what OPM was supposed to do under that bill.

As I said at my previous testimony, my main concern was what in fact we were being asked to do.

Ms. OAKAR. Dr. Devine, if I could just interrupt you for one second. Our letter to you asked you to talk about the meeting with the union representatives. Now, when I asked Mr. Byrnes questions relative to the study itself, your in-house study, he indicated to me that that wasn't what the Chair asked him to talk about.

You can go on about how you feel now about the legislation, but I hope you are going to get to the subject that the Chair asked you to address because I believe you were coaching Mr. Byrnes not to answer some of the questions that I asked relative to your study.

Mr. DEVINE. What I am trying to do is to show the context in which the memorandum was issued.

Ms. OAKAR. I see.

Mr. DEVINE. I think it is important to note that the final bill, H.R. 5680, does clear up one of our questions and that is whether in fact we are supposed to investigate blue-collar occupations as well as white collar. The bill has been changed to include blue-collar occupations and I appreciate that clarification.

I also note that the words "comparable worth" have been taken out of the bill and I think that helps me to understand what the purpose of the bill is. I believe that that represents some progress. There are still some questions that remain. You mentioned that we are not supposed to integrate the blue- and white-collar occupations.

However, the question is not so much integration as to whether one standard is supposed to be used to evaluate the differentials that are spoken of in the bill. If one standard is to be used for both white and blue-collar, what standard?

And as one of the gentlemen from the unions said, without any further advice or leadership from the committee, my interpretation is that we would use the most technically accurate method, which is the Factor Evaluation System, as was mentioned by one of the gentlemen.

I would have some concerns using the Factor Evaluation System on blue-collar occupations, but my job as a public servant is to follow the will of Congress. But I must know what that will is.

I will only end by commenting on the purposes of the meeting with the union leaders. I was required to make comments on H.R. 5680 for the comittee to give the administration's position on that bill. In exercising that, I felt it was important to hear from the blue-collar unions. I had heard the testimony of the white-collar unions on the subject and was aware of their opinions.

I was not aware of the opinion of the blue-collar unions. That is why I asked them. Of course, in my role as Director I have not only

the right but the obligation to find out the opinions of the different groups affected by any legislation that is proposed, and because of my obligation to recommend to the administration as to what our position is on a bill.

So I clearly have the right, and indeed the obligation, to ask the opinion of affected parties on the bill.

I did not urge that they lobby on the bill. I did not ask them to do anything. I made that very clear. I believe Madam Chair knows me well enough that I would be very aware of possible violations of the Hatch Act or antilobbying provisions and you could be certain that I would be very careful not to allow such a situation to develop.

I would be happy to answer any questions that you have beyond that.

Ms. OAKAR. Well, thank you very much, Dr. Devine. Thank you for answering today.

Dr. Devine, let me begin in asking what the purpose of calling certain representatives of the unions on May 26, 1984, 1 day before the committee was scheduled to mark up the Federal Pay Equity and Management Act of 1984? Why did you call the unions together?

Mr. DEVINE. As I mentioned, the purpose of the meeting was to get their opinions and the opinions I was soliciting were of blue-collar unions whose opinion I was not generally aware of through personal conversations and staff conversations and primarily their testimony on the bill.

I was very aware of the white-collar unions and I wanted to get the opinions of the blue-collar unions.

As to the date, as best I can recollect, the markup of the bill was on the 15th. I immediately set into operation late that day, I believe, to prepare the mailgram to send to the unions and asked them to meet at the first available time I had after that time; and yes, before the hearing, because their views, I felt, were important to me before I could recommend a position to the White House on the bill.

Ms. OAKAR. One member testified that you invited them on the 18th; they got the mailgram on the 18th.

Mr. DEVINE. Well, that is possible. As I say, we started on the 15th. I don't think it was sent until the 16th. It is supposed to arrive the next morning, but I know from experience that it sometimes takes another day to be delivered.

Ms. OAKAR. You know NAGE was invited to that meeting and Ed Murphy also testified before this committee.

Mr. DEVINE. I must have missed that.

Ms. OAKAR. We understand that AFGE or NFFE, the two largest unions representing Federal workers were not invited to the meeting initially.

Mr. DEVINE. As I said, I was aware of their views. When they requested to be admitted, I said certainly, have them come. I was aware of their opinion, but I would be happy to listen to it again.

Ms. OAKAR. You weren't doing this so that they wouldn't be present to defend their testimony concerning their positive response to the bill?

Mr. DEVINE. I am sorry. I don't understand——

Ms. OAKAR. You were not doing this to eliminate them so that they wouldn't have an opportunity to speak out for the bill? They were most familiar with the bill?

Mr. DEVINE. As I mentioned, I knew that they were in support of the bill so it wasn't necessary to get it again, but since they asked to come we were happy to have them come.

Ms. OAKAR. In your mailgram did you mention that the purpose of the meeting was to discuss the bill?

Mr. DEVINE. No, madam.

Ms. OAKAR. But that was your intention?

Mr. DEVINE. My intention was to get their opinion on what I thought the bill was requiring. I did not refer to a bill because I didn't want to create the impression that we were lobbying.

We were not lobbying. We were interested in people's views on a subject matter.

Ms. OAKAR. But you did not tell them in your mailgram that they were going to be discussing—via a slide show presentation that you sponsored—the bill?

Mr. DEVINE. I was concerned about the appearance that it may look like lobbying if I did.

Ms. OAKAR. I see. Were you in fact doing that?

Mr. DEVINE. No, madam.

Ms. OAKAR. They claim you were.

Mr. DEVINE. If they tell you the words I used, they will have to agree that I said nothing that could be taken as lobbying. I was well aware of that statute when I went into that meeting.

Ms. OAKAR. So your purpose was not to initiate your own opinion against the bill, but to get their opinion, is that correct?

Mr. DEVINE. To inform my opinion.

Ms. OAKAR. It certainly seems a little coincidental, to put it mildly, that you called a meeting of the union representatives 4 days after the date of the Byrnes memorandum.

Do you normally send mailgrams to request attendance at meetings?

Mr. DEVINE. I have in the past.

Ms. OAKAR. What was the urgency in calling the meeting again?

Mr. DEVINE. Again, I had to get my opinion to the White House on the day of the meeting and we in fact did not send our opinion to the White House until after that meeting on that day.

Ms. OAKAR. As long as you mentioned the White House, is the President aware of your activities?

Mr. DEVINE. Which activities?

Ms. OAKAR. The activities of the memorandum, the meeting you held? You said you had to report back to the White House, I assume when you say the White House you are not talking about somebody who is the butler there; you are talking about the President, aren't you?

Mr. DEVINE. Not in particular, no.

Ms. OAKAR. Who are you speaking of when you say "the White House?" The tourists?

Mr. DEVINE. I am referring to the legislative desk at the Office of Management and Budget.

Ms. OAKAR. Is the President personally aware of the memorandum, the meeting and the aftermath of those?

Mr. DEVINE. I don't know if the President is aware of it. I am sure he isn't aware of any meetings. I informed the Executive Office of the President of our opinion on H.R. 5680.

Ms. OAKAR. So David Stockman is aware of your activities, is that what you are telling the Chair?

Mr. DEVINE. I do not know if Mr. Stockman is aware of the activities or not.

Ms. OAKAR. You are sure of that?

Mr. DEVINE. Am I sure that I am not aware of it?

Ms. OAKAR. Yes.

Mr. DEVINE. I don't know whether he does or not. I have not discussed the issue with Mr. Stockman.

Ms. OAKAR. Have you discussed the issue with any members of his staff?

Mr. DEVINE. Yes, madam.

Ms. OAKAR. What did they tell you?

Mr. DEVINE. All I discussed with them was the issues, and they agreed with me on the issues.

Our essential concern, as I mentioned, is what are we supposed to study? We need more guidance from this committee as to what in fact you want us to do.

Ms. OAKAR. Did they agree with the tactics of the Byrnes memorandum that you take full responsibility for?

Mr. DEVINE. We did not discuss the Byrnes memorandum or any tactics. We discussed the issue and there are no tactics involved except our policy of having all options presented.

I always demand that we have at least two options on every issue before me, and I did not see any reason to make an exception in this case.

Ms. OAKAR. Do you intend to reprimand Mr. Byrnes in any way for his actions?

Mr. DEVINE. No, madam.

Ms. OAKAR. You don't believe that it was a political memorandum?

Mr. DEVINE. No, madam. I believe he was trying his best to respond to my demand for an option.

Ms. OAKAR. Was your demand for an option political when you mentioned think like a liberal Democrat in, I have to say, a rather disparaging way to the staff director of Mrs. Schroeder's subcommittee?

Mr. DEVINE. I don't think it was disparaging at all. I find him a highly intelligent individual and when I think of an extremely intelligent person who comes out on the other side about 100 percent of the time, or close to it, he is the gentleman we think of at OPM.

Ms. OAKAR. And he votes, does he, for Congress?

Mr. DEVINE. No, madam.

Ms. OAKAR. So you don't believe that your charge was in any way politically motivated? His statement was this memorandum isn't in any way political in nature despite the language in it.

Mr. DEVINE. Of course, I am a political appointee, but my request was a request to have another option.

Ms. OAKAR. But, using a party persuasion in terms of the option, right?

Mr. DEVINE. Well, poor Mr. Byrnes was given a task. He could not come up with an option in favor of H.R. 4599 and he had to search for one.

Ms. OAKAR. Do you believe this statement in the memorandum is political in nature? "Political possibilities of this situation should not be underestimated," and then the memorandum goes on to suggest pitting various groups against each other, dividing the constituency to the left and creating disorder within the Democratic House.

Do you think that that is a nonpolitical memorandum?

Mr. DEVINE. Yes. Mr. Byrnes was looking to give me some reasons to support H.R. 4599 at that point, and he was having great difficulty. I told him to be imaginative and think in a particular way and that was his best attempt to do that.

He, as far as I know, was opposed to H.R. 4599.

Ms. OAKAR. That is not the question. The question is, is that language political?

Mr. DEVINE. The language is part of an option memo where he was trying to give a reason for a bill that he opposed and I opposed.

Ms. OAKAR. Is it political, yes, or no?

Mr. DEVINE. No.

Ms. OAKAR. That language is not political.

Who participated in the meeting from your staff or from other agencies? Please give their names and positions.

Mr. DEVINE. Participated in what?

Ms. OAKAR. In the meeting with the union representatives. Would you give their names and agencies?

Mr. DEVINE. I believe the only person was Mr. Patrick Korten.

Ms. OAKAR. I didn't hear you. I am sorry.

Mr. DEVINE. Patrick Korten from OPM.

Ms. OAKAR. What is his position?

Mr. DEVINE. Executive Assistant Director for Policy and Communications.

Ms. OAKAR. We have a vote on the floor and I still have questions. I know my colleagues want to ask questions.

The Chair will adjourn the meeting for about 10 minutes.

[Recess.]

Ms. OAKAR. The subcommittee will come to order.

Dr. Devine, prior to the meeting of the unions had you had a chance to read the Byrnes memorandum?

Mr. DEVINE. No, madam.

Ms. OAKAR. You did not read the Byrnes memorandum?

Mr. DEVINE. No.

Ms. OAKAR. You don't feel that is in conflict with what Mr. Byrnes said earlier that he had talked to you many, many times about that and I will check the record, but I believe he said that he felt he probably did talk to you about the memorandum?

Mr. DEVINE. He might have discussed it with me but I didn't read the memorandum.

Ms. OAKAR. But he did discuss it with you?

Mr. DEVINE. I don't have any recollection that he did but he may well have.

Ms. OAKAR. Do you want the subcommittee to believe that you called this meeting which from all appearances implements the po-

litical, underline political, strategy outlined in the Byrnes memorandum without your ever being familiar with it?

Mr. DEVINE. Well, again, I don't see how it is implementing any strategy. The memorandum asked us to support H.R. 4599 and we didn't.

Ms. OAKAR. The memorandum really doesn't go into that detail, you know, per se, but it does talk about pitting unions against each other, and so-called radical feminist groups and further dividing the constituency of the left.

Isn't that what you were trying to do by calling this meeting?

Mr. DEVINE. No.

Ms. OAKAR. Weren't you trying to divide the white-collar unions from the blue-collar unions?

Mr. DEVINE. I was trying to get opinion from the blue-collar unions. I already was clear in my mind as to the white-collar unions' opinion, I was trying to get the blue-collar unions' opinion.

Ms. OAKAR. When was the last time you called a meeting of the unions to get their ideas on legislation?

Mr. DEVINE. Oh, I don't recall any particular dates. I am sure I have done it though.

Ms. OAKAR. Can you give me any instance in which you asked the unions their opinions about legislation, for example, in terms of your budget recommendations—that effect their retirement program, or the voucher system. Have you ever asked the unions their opinion up front before May 22?

Mr. DEVINE. Certainly, on retirement.

Ms. OAKAR. Before you attempted to get a bill implemented in the budget, and/or designed as a bill that was introduced by another colleague? You did talk to them about it?

Mr. DEVINE. I am always talking to people. As Mr. Stein mentioned, I was in Philadelphia recently getting opinion. I do that all around the country all the time.

Ms. OAKAR. We are not talking about just talking to people, going out in the field. Specific mailgram-type meeting which you send a mailgram saying, please be here on such and such a date?

Mr. DEVINE. Usually we have enough time but I did send a similar one out on the Combined Federal Campaign just a couple weeks ago.

Ms. OAKAR. So you make it a practice to consult with unions?

Mr. DEVINE. In this case it wasn't unions but groups in the Combined Federal Campaign and I certainly make it a practice to listen to unions.

Ms. OAKAR. Could you explain to the committee the normal routing procedure for memoranda issued by Mr. Byrnes for you? To whom does it go and how do you get it?

Mr. DEVINE. I wouldn't say there is——

Ms. OAKAR. He said he bypassed his immediate supervisor, I believe.

Mr. DEVINE. I wouldn't say that there is any normal procedure. I encourage, as far down in the organization as I can possibly deal with, opinions from different people. Many people even down to the GS-15 or 14 level can write to me directly, especially if it is something with some urgency and some time deadlines attached to it.

So while the normal course would be to go through Mr. Post, it is not unusual for Mr. Byrnes or any of our senior executives to write to me directly. I wouldn't say all of our senior executives but most of our senior executives have written to me directly. It is not unusual. It is not the norm though. But in this case, we received the legislation relatively close to the time that we had to give an opinion on it so I suppose Mr. Byrnes wanted to give it to me quickly.

Ms. OAKAR. Dr. Devine, you raised the lobbying law issue, so let me ask you if you are familiar with 18 United States Code 1913 entitled "Lobbying With Appropriated Monies" and the prohibition in the Treasury Postal Service and General Government Appropriation Act under which funds are appropriated to OPM which states, "No part of any appropriation shall be used for publicity or propoganda purposes designed to support or defeat legislation pending before Congress."

Are you familiar with the law?

Mr. DEVINE. Yes, madam, very familiar with it.

Ms. OAKAR. Dr. Devine, I suggest that your actions seem to have violated the spirit if not the actual prohibitions of these statutes. One of the people who testified today indicated that he thought you should resign based on the fact that you had violated a law. Do you agree with that statement that you ought to resign because you broke the law and are you aware of the very perilous ground that you are wandering on when you called that meeting?

Mr. DEVINE. Well, if I followed the opinions of unions to resign, I would have resigned about 2½ years ago—I think that is the first time a union asked me to resign. I was very aware of the law when I called the meeting and at the meeting. You can be absolutely assured of that.

Ms. OAKAR. Do you feel you violated the law?

Mr. DEVINE. Of course not.

Ms. OAKAR. You don't mind if the Chair asks the Justice Department to look into this, do you?

Mr. DEVINE. No, madam, I don't mind at all.

Ms. OAKAR. Dr. Devine, it is interesting that you are so concerned with the impact of my legislation on blue collar workers, especially in light of the pay caps, reductions in force and increased contracting out of jobs initiated by your suggestions to the administration.

These actions have seriously harmed this group of workers as some of them stated, it is also interesting that in your testimony before the committee on April 3 you announced that as part of your classification study the OPM is comparing the Federal wage system with the General Schedule examining the rationale for maintaining these distinct systems. Obviously this portion of the study is an administration initiative completely independent of my bill.

Some who know about your standards and the review standards that you have tell me that they believe it is laying the foundation for an integration of the two systems and massive downgrading of both white- and blue-collar workers after the November election if the President is elected to another term.

Tell me, Dr. Devine, can you assure Federal workers that what I have been told is wrong, that they need not worry about being downgraded in your studies?

Mr. DEVINE. What you have been—what was the question, what you have been told?

Ms. OAKAR. That you intend to merge those classifications and that that—you know the threat that you sort of hung over their head if Mr. Reagan is reelected?

Mr. DEVINE. I think——

Ms. OAKAR. The idea "If you think we are bad now, wait until you see after November." Have you ever said that to anybody?

Mr. DEVINE. No.

Ms. OAKAR. Or indicated that to any of the employees?

Mr. DEVINE. No, I think that any change that is made in the two systems should be done very carefully on a basis of a lot of study and a lot of discussion. One of the concerns that I have with your legislation is the time deadline that we are supposed to complete the study in. Seven months, I don't believe, is enough time to look at all of the issues that surround this extremely complex issue. That is my major concern.

I did feel from our conversations previously and in testimony last year and the year before—or this year and the year before—that that was your interest and I thought that we should look into it. What I am concerned about is the language in the bill which asks us to evaluate the two systems under what appears to me to be a single standard. And it is that which—as I understood the testimony of the union leaders—that everybody doesn't want to do, at least those people don't want to do.

If that in fact is the opinion of the committee, I would appreciate some direction which would say that.

Ms. OAKAR. The committee intends to give you a report that will give you more direction but you know that you deliberately misled the unions and you know that you never once mentioned to those unions that we had a provision in this legislation that would not allow for any recommendations to downgrade anybody and you know the Chair's position on the comparability work which you don't agree with.

You don't agree that the President's commission, which states that the Federal employees are 21 percent behind the private sector in pay. So you know what you were trying to do. Let me call on Mr. Bosco.

Mr. Bosco. Thank you, Madam Chairman.

Dr. Devine, I also appreciate you being here. When I was on the plane yesterday thinking what possible rationale you could give for this memo, frankly I didn't dream it would be as clever as it is. You have painted a scenario whereby your staff was asked to come up with in their wildest imagination what could you say in support of this bill and of course this just happens to be one idea that probably you wouldn't give much thought of but they concocted trying to meet the obligation that you put them under.

In addition to that, you said that you actually asked Mr. Byrnes to come up with rationale for your support of the bill, not just for reasons that you might oppose it but to support it.

I don't believe any of that and I will tell you why. The memo is not obviously written in response to your request that anyone come up with a rationale to support the bill. The wording of the memo is very clear that in reviewing our operations on standard setting and job evaluation—not on coming up with reasons to support the bill—it occurred to me that we had not adequately investigated one option. That seems more or less gratuitous rather than in response to a request from you.

Second, the memo is written in the context of the chance that the bill would pass not in the context of whether you should support it or not. The first couple-three paragraphs of the bill, the memo comments on the fact that if the bill passes, there is a chance of this bill passing, and what we might do in that response.

So I think although it is a nice try to come up with the rationale that this was just one of many options that you were considering, I may be the only one but I don't believe it.

I wonder, did you get other memos containing these other options since this seems to be a general request to come up with options on the bill?

Mr. DEVINE. There was an earlier option paper that outlined different approaches to it and this is in addition to it.

Commenting on your point about what the purpose of the memorandum was, it seems very clear to me, it says, "In reviewing our options on standards setting and job evaluation it occurred to me we had not adequately investigated one option."

That seems clear to me. The next sentence goes on, "This is especially pertinent now since Bob Moffitt tells me there is a good chance the House might pass Representative Oakar's pay equity bill."

What he is trying to do is give me an option. I can assure you that I discussed this with Mr. Byrnes before he did it. I didn't know exactly what he would come up with but the direction I gave him is not inconsistent with what he came up with.

Mr. BOSCO. Well, I guess any number of people could read the memo any numbers of ways, but my way of reading it is that it is not in response to a request on your part that your staff come up with any number of options that you might use to support this bill.

My reading of it is that it is gratuitous, it is a brainstorm, it's written in response to what your department might do if this bill passed and that would be to use it to divide the work force, to turn feminists against labor unions, and labor unions against other unions.

May I ask that you submit for the record other memorandums that you received containing options that you or the Office of Personnel Management might use in regard to this bill or this subject, memos in the recent past?

Mr. DEVINE. I just hope that when we do this that I won't be held accountable for those options either.

I think it would be a mistake to limit the free presentation of different options. There are options presented in that other option paper that I don't favor, that my staff doesn't necessarily favor either, and I would hope that this does not result in some inhibition of the free flow of ideas within the executive branch.

Mr. Bosco. I am sure that your attorneys can inform you on executive privilege. It is a constitutional doctrine and in the event that you decide that other memos that may have been written are equally as strident and as offensive as this one, then perhaps you can claim executive privilege and we won't have access to it.

I, for one, would like to see other options if only to get an idea of what type of people we are hiring on your staff and what kind of ideas they come up with.

I believe as you do, that we should have a free flow of ideas. Frankly, the thought of putting groups against each other strains that concept but I would like to see the other options that you have.

Mr. DEVINE. I would be happy to present them.

[The information follows:]

Mr. Bosco. Did you meet with Mr. Byrnes after the time that he wrote this memo and before the time that it was disclosed in the press relative to the subject of the memo?

Mr. DEVINE. Not relative—well, I don't know. We have been discussing the general topic of this bill almost continuously for the past 3 weeks or so.

Mr. Bosco. Did you discuss his memo with him after he wrote it and before the press picked it up? In other words, you get together and you say: I received your memo, I like the idea; I didn't like the idea; here is how we should pursue it; this is why I don't want to pursue it?

Was there any discussion along those lines about his memo?

Mr. DEVINE. As I mentioned before, I returned the memo to him disapproved. I may have discussed it with him after. I have no specific recollection but I wouldn't say that I didn't.

Ms. OAKAR. Will the gentleman yield? I thought you just said a few minutes ago that you never saw the memo? When did you disapprove it? I think you are contradicting an earlier statement, Dr. Devine.

Mr. DEVINE. No, no. I believe I received it the afternoon of the meeting with the unions, but it may have been the day after that. It was somewhere around there.

Ms. OAKAR. It is dated May 24.

Mr. DEVINE. Yes.

Ms. OAKAR. I just want the gentleman from California to know that I think you are contradicting yourself.

Mr. DEVINE. No, I am not. It takes a couple days to go through the system. I remember one of my staff went to one of my other staff and said they would be willing to swear that I didn't see it until afterwards and they were shocked that it leaked out before I even saw it. I think any investigation of my staff would show that.

I don't mean just political appointees, I think that is pretty clear that I didn't see it until after the meeting. And if my recollection is not clear it might have been the afternoon of that morning meeting or it might have been the next day.

Mr. Bosco. So in that case you didn't talk with Mr. Byrnes prior to the time that you had a meeting with the labor leaders?

Mr. DEVINE. No; as I say, we talked continuously about it——

Mr. Bosco. But about his memo you didn't talk with him?

Mr. DEVINE. Not about the specifics of the memorandum. He may have brought the ideas up. As I say, we brainstormed every possible approach to the bill and he may have mentioned that. But again, it is independent of the purpose of the meeting.

Mr. BOSCO. Let me be more specific then because perhaps when you actually saw the memo may be irrelevant here. Let me ask you this, prior to the time you met with the labor leaders, did you discuss with Mr. Byrnes the possibility of using this bill, the study and job evaluation that was being conducted, or any aspect of the comparable worth question? Did you discuss the possibility of using that as a way to divide union against union, feminists against unions, liberals against conservatives, or whatever? Did you discuss the tone or content of his memo without perhaps having seen it?

Mr. DEVINE. Well, not in any advocacy sense, as I don't interpret an option memo to be an advocacy sense. Clearly it has been discussed many times through our review of the literature on this subject, the possibility that different groups would be affected differently by pay equity. The literature is very clear on that. The literature is very clear that those most likely to be affected in a negative way would be blue-collar occupations. That is, however, empirical evidence and not any question of intent.

Mr. BOSCO. Well, going on then to the meeting that you called, is it customary for you to meet with blue-collar unions separate from white-collar unions? Have you ever done that in the past?

Mr. DEVINE. I have had so many meetings I can't say whether I have. I have certainly met with white-collar unions separately from blue-collar unions on many occasions. I may have met with blue-collar unions separately before. I can't recall one way or another.

Mr. BOSCO. In terms of calling a meeting, though, to discuss a piece of legislation, you say that you only excluded the white-collar unions because you were already aware of their opinion. Was this meeting held to get their opinion?

Based on the testimony that I have heard, it appears that you were giving them your opinion on the bill. Were you trying to form their opinion or get their opinion at this meeting?

Mr. DEVINE. I was trying to get their opinion on my interpretation of what the bill said.

Mr. BOSCO. Oh, I see.

Mr. DEVINE. Because I had to give my opinion to the Executive Office of the President.

Mr. BOSCO. Did Mr. Byrnes attend that meeting with you?

Mr. DEVINE. No, sir.

Mr. BOSCO. Thank you very much. That is all the questions I have.

Ms. OAKAR. Thank you very much.

One quick question as followup. Why didn't you inform them that that was the purpose of the meeting, to discuss the bill?

Mr. DEVINE. As I mentioned before, I was very aware of the laws on this matter and I did not want it to be misinterpreted that I was lobbying.

Ms. OAKAR. Mr. McCloskey.

Mr. MCCLOSKEY. Thank you, Madam Chairman.

Thank you very much for coming today, Mr. Devine, I really look forward to seeing you in action. And quite frankly, I am very im-

pressed with the vigor, the imagination and vitality with which you pursue your interpretation of these circumstances. Without being too negative, I think Mr. Bosco said it fairly well and very succinctly. The idea of this as a followup to a specific request for an option under the guise of thinking like a liberal Democrat, whatever that is fails or strains credibility. But you are sticking to your guns along the lines that this was an order, to come up with an option to think like a liberal Democrat?

Mr. DEVINE. Yes, sir.

Mr. MCCLOSKEY. Could I ask—this is said very respectfully—according to the media I have read out here, you are one of the most capable administrators in Washington and a man known for his respect for the English language. Do you feel that this order was complied with?

Mr. DEVINE. Yes, he responded to the best of his ability to respond.

Mr. MCCLOSKEY. Does the wording of this letter or memorandum, does this ring anything like a liberal Democrat at all?

Mr. DEVINE. Well, I can't speak for liberal Democrats.

Mr. MCCLOSKEY. "To cause disorder within the Democratic House?"

Mr. DEVINE. I would not have necessarily worded it the same way but he is trying to comply with an order by a rather demanding boss, and I certainly don't want to get into the business of censoring my staff's views.

Mr. MCCLOSKEY. Isn't it possible that the demanding boss is being very lax on this occasion and that surely there are legitimate—if we can call them that—liberal Democratic and other reasons to be for this comparable pay equity legislation? Doesn't it strain credibility that he could not come up with one reason, substantive or political, other than to assume it was a fait accompli and was going to pass?

Mr. DEVINE. His problem is, as it is mine, that we don't know what comparable worth is. If someone would tell us, we would investigate it. That is his concern.

Mr. MCCLOSKEY. Well——

Mr. DEVINE. We are for equal pay for equal work. That I understand.

Mr. MCCLOSKEY. So basically you are saying, then, with the concept of comparable worth being endorsed by such people as Elizabeth Dole and Olympia Snowe, that in effect either they don't know what they are talking about or they are doing this for political reasons?

Mr. DEVINE. No. I think the committee has made a major step forward by taking the term "comparable worth" out of the bill. I think that is a major step forward. I didn't take it out of the bill, the committee did.

Mr. MCCLOSKEY. Could I ask you what is a radical feminist?

Mr. DEVINE. I don't know.

Mr. MCCLOSKEY. The term is used here.

Mr. DEVINE. I didn't use it.

Mr. MCCLOSKEY. The term is used in this memorandum.

Mr. DEVINE. I don't know.

Mr. McCLOSKEY. He is just throwing language at you that you don't understand?

Mr. DEVINE. I have some vague conception of it, the same as I am sure you do, but it is nothing that I would want to come up with an explanation for. It is trying to say something in general. I presume it is some kind of an analogy for those who are supporting a particular version of comparable worth. Again, if we could identify what it was it might be easier to identify the term.

Mr. McCLOSKEY. Could I ask you, do you view this whole memorandum episode and the meetings with the unions as promoting governmental efficiency rather than political disruption? There is talk in this thing of basically political disruption. Is that your mission?

Mr. DEVINE. No, sir. My mission is to have all ideas before me and to make an informed decision based on those ideas.

Mr. McCLOSKEY. And you do not plan to reprimand Mr. Byrnes in any way, even from the concern of efficiency in not coming up with any reasons as suggested?

Mr. DEVINE. No, sir. He came up with his best attempt at it. I get a lot of options presented to me that aren't worth very much and those are discarded.

Mr. McCLOSKEY. What is Mr. Byrnes' yearly salary?

Mr. DEVINE. I don't know.

Mr. McCLOSKEY. I would like to have that, please.

[The information follows:]

The amount of annual salary is $59,223.

Mr. McCLOSKEY. Thank you.

Ms. OAKAR. Dr. Devine, we know that the legislation calls for sex-based wage discrimination, a study of that, so you are skirting the intent of the law in trying to get us into a discussion of the comparable worth issues. The Chair would be happy to indulge in discussing that, but you are skirting the real issue.

If H.R. 5680 is enacted into law and I think it will be despite your manner of obstructionism, what assurances can you give us that, assuming you are still the Director of OPM for the next several months, the study will be conducted in a fair and objective manner within the confines of the legislation?

Certainly the events of the last 10 days have damaged your credibility and the credibility of your top staff who are conducting the so-called in-house study that you have.

So what assurances do you want to give the committee that your study will try to be objective if the bill is enacted into law?

Mr. DEVINE. I will be objective in following the will of Congress, but I think it is important that Congress be clear on what it is doing. You mentioned—and you have mentioned it many times today—about your language that would prohibit downgrading. That isn't how I read your language.

Ms. OAKAR. Prohibition of downgrading is right in the bill. And you, by the sin of omission which St. Thomas Aquinas defines in one of his great works neglected to tell those unions that that was in the bill. Dr. Devine, what actions, if any, did you intend to initiate to make certain that your staff does not participate in partisan political activities or that the Federal work force will not be sub-

jected to or intimidated by you to unwarranted and possibly unlawful political manipulation?

Mr. DEVINE. In further response to your previous question, I feel it is extremely important that we understand exactly what this legislation is meant to do, and I would urge your staff to read the language in that section. If it is your attempt or your purpose not to have any positions downgraded, I would suggest that you look more closely at that language.

Ms. OAKAR. The Chair appreciates your advice, but would you answer this question?

What actions, if any, do you intend to initiate to make certain that your staff does not participate in partisan political activities?

How can we be certain that the Federal work force will not be subjected to or intimidated by you to unwarranted and possibly unlawful political manipulation?

Mr. DEVINE. I have made it very clear to my staff that no one will be involved in partisan political activity. No one has and I hope that no one will other than, of course, myself.

Ms. OAKAR. Yourself?

Mr. DEVINE. Yes. I am allowed to be involved in partisan political activity.

Ms. OAKAR. And you are also allowed to lobby, is that it?

Mr. DEVINE. No, I am not allowed to lobby and I don't intend to lobby.

Ms. OAKAR. You will be happy to know that the Chair intends to ask the Justice Department and Special Counsel to investigate your and Mr. Byrnes' activities. The Chair notes that you do have a certain number of days to correct some of your statements if you wish.

There are some contradictions. I think you will want to look at the transcript; we will provide you with a copy of the original and we will look forward to working with you in the future.

Thank you very much.

Mr. DEVINE. Likewise.

Ms. OAKAR. The subcommittee is adjourned.

[Whereupon, at 1:05 p.m., the subcommittee was adjourned.]

FEDERAL PAY EQUITY ACT OF 1984

TUESDAY, JULY 17, 1984

HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON COMPENSATION AND EMPLOYEE BENEFITS,
Washington, DC.

The subcommittee met, pursuant to call, at 9:30 a.m., in the California East Room, St. Francis Hotel, San Francisco, CA, Hon. Mary Rose Oakar presiding.

Ms. OAKAR. The hearing will come to order.

Today we're very very pleased to be in San Francisco to conduct our series of hearings on pay equity. We'll examine the Federal role in enforcing the current laws which protect private-sector employees. I'm very delighted to be conducting this hearing, and having my chairman of the full Post Office and Civil Service Committee present, Bill Ford. I want to thank the chairman for his leadership on the issue of pay equity and for attending our hearing in this beautiful city of San Francisco.

Today, the Subcommittee on Compensation and Employee Benefits will continue its series of hearings on pay equity and will examine the Federal Government's role in enforcing current laws which protect private-sector employees. I am delighted to be conducting our first field hearing in the beautiful city of San Francisco and look forward to the testimony from the witnesses.

I would like to mention at the outset of this hearing that 3 weeks ago, this subcommittee made history in successfully bringing to the floor of the House of Representatives a pay equity bill. The legislation, which I introduced earlier this year, requires that a consultant examine the Federal pay and classification systems to determine whether they are marred by sex-based wage discrimination. The vote on final passage of H.R. 5680 was 413–6.

While I am very gratified by the near unanimous support for this legislation on the first vote ever taken in the House on a pay equity bill, I am greatly disturbed by the Reagan administration's continuing opposition to my bill and the threat of a Presidential veto. No matter how difficult the White House may seek to make the road to enactment on this bill, we fully intend to pursue this legislation until it is signed into law. Women employed by the Federal Government deserve no less.

Late last January, I introduced another bill, H.R. 5092, the Pay Equity Act of 1984. This bill would accomplish two important purposes: One, it would mandate the Equal Employment Opportunity Commission to establish an Educational and Technical Assistance Program for private employers to assist them in complying with

pay equity principles; and two, it would require the EEOC, the Justice Department, and the Labor Department to report periodically to the President and the Congress on their enforcement of current laws.

Several key factors prompted me to introduce H.R. 5092. One, a severe backlog of pay equity cases, some dating back to 1974, continued to grow at the EEOC. Two, the Department of Justice was contemplating filing an amicus brief in the court of appeals on the side of the State of Washington in the precedent-setting case of *AFSCME* v. *The State of Washington*. Three, and most importantly, the pay gap that exists between male and female workers persists and there seems to be few, if any, legitimate reasons explaining this phenomenon.

It is clear from past congressional hearings and from scholarly analysis that sex-based wage discrimination plays a major role in keeping women's wages low. Working women who occupy jobs traditionally considered female work are more likely than not to suffer sex-based wage discrimination. Nurses, 95 percent of whom are women, earn less in 1 year than doctors earn in a month. Elementary-school teachers, 80 percent of whom are women, earn only $17,000 a year, while many male-dominated occupations which do not require the same educational background pay much more. Secretaries, 98 percent of whom are women, earn nearly $4,000 a year less than truckdrivers. And most child-care workers are paid less than dog-pound attendants.

Some argue ferverently that pay equity is just another ploy by advocates of women's rights. I firmly believe, however, that the elimination of sex-based wage discrimination is not just a women's issue; it is a family issue. Women work for the same reasons men work, to support their families and themselves. Whenever a family member's earning potential is stymied, the entire family suffers.

Nor will sex-based wage discrimination disappear as more women pursue nontraditional careers. The jobs women perform are essential to our society. We, our children, and our senior citizens need quality health care. The future of our country is dependent upon our educational system. Rather than simply declaring victory when women attorneys are equal in number to men, we need to reexamine women's work and establish the true value for these occupations.

We need to rally against sex-based wage discrimination with the same spirit and vigor as our Nation attacked slavery and the abuse of children in the work force. We need to demand an end to this form of discrimination to ensure that working women will be treated fairly and equitably; that they will not be forever relegated to the back of the bus.

Twenty-one years ago, the Equal Pay Act was adopted, prohibiting employers from paying women less than men when peforming the same jobs; 20 years ago this month, the Civil Rights Act of 1964 was signed into law prohibiting employers from paying women less even when job content differs. Back then, women earned approximately 60 percent of what men earned. Today, women comprise nearly half the work force and, yet, they still only make 63 percent of what men earn. Not much progress has been made in the last two decades. The wage differential has remained virtually un-

changed despite the fact that nearly half of all masters and bachelors degrees are now earned by women.

My legislation, H.R. 5092, prompts the Federal Government to enforce the laws that are on the books which, in my opinion, are adequate in protecting workers against illegal discrimination. The bill would put the EEOC, the Justice Department, and the Labor Department on record as advocating rather than thwarting the Equal Pay Act and the Civil Rights Act. The bill would also provide an important signal to the private sector that the Federal Government is committed to the elimination of sex-based wage discrimination and supportive of civil rights for all its citizens.

Earlier I mentioned that I introduced H.R. 5092 because I believe that the administration has been terribly lax in this area; 266 pay discrimination charges have yet to be resolved by the EEOC. The Civil Rights Commission believes that the elimination of sex-based wage discrimination is a radical idea. And, the Justice Department is still contemplating intervening on behalf of the State of Washington, hoping that the pay equity decision made in favor of that State's employees is overturned.

Responding to our subcommittee hearings in Washington, DC, last April, one agency, the EEOC, has made some progress in the area of pay equity. A compliance manual, which provides guidance to field officers on how to process pay equity charges, has been sent to all EEOC offices. EEOC's task force on pay equity has also reviewed the pending sex-based wage discrimination charges at the headquarters and will make determinations in the coming weeks on whether that agency will pursue any of the charges. While I am encouraged by the EEOC's new determination and hope that it is a sign of better things to come, the fact of the matter is that these initiatives should have been undertaken 3 years ago.

If more activity on the part of the Federal Government is not forthcoming, particularly from executive branch agencies, I predict the problem of sex-based wage discrimination will grow. Employers will not have a sufficient incentive to change their pay practices. Not all women who are victimized by this form of discrimination can afford to sue. Similarly, many women are not unionized. In many respects, they are left on their own in having to enforce the law if the Government is not behind them.

Discrimination, whatever form it may take, is unlawful and should be banned. The Federal Government has certain statutory obligations that should not be disregarded. Pay equity is a principle basic to the economic freedom of the women of this country. It is their right and it is our responsibility to make certain that it is upheld.

Again, I look forward to receiving testimony from our witnesses.

At this time, I would like to call on the chairman of the Post Office and Civil Service Committee, William Ford.

STATEMENT OF HON. WILLIAM D. FORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. FORD. Thank you.

I have no comments, Madam Chairman, except to return your compliment, and point out to those who don't yet know that,

through your efforts, the White House sort of backed off a little bit 1 week ago. And, indeed, we passed the legislation in the House that carries with it the first deliberate act by Congress to acknowledge that there is a problem with pay differential in the Federal work force between males and females. The specific study which is outlined in your legislation is designed to measure the dimensions of the problem and try to identify those places in the Government work force where they actually exist, so that our committee can begin to address changes in the pay structure and classification structure of the 3 million-plus Federal civilian work force. The purpose is to see if we can't, as should be done, make the Federal Government an example to be emulated rather than an example of how much you can get away with if nobody pays attention.

This administration has had a lot of attention from Federal workers because there's virtually no facet of Federal employment, no matter whether you were a hostage and had your pay cut as a result of the Reagan budget cuts while you were in the custody of the kooks and crazies in Iran. I thought it was the height of some kind of irony when the President greeted them back, and returned to the White House before their relatives told them that while they were being released, the budget proposal of the President's panel. This cut their pay and their pension while they were prisoners. The President for some reason doesn't realize that they were Federal workers, some male and some female. And when he launches his attacks on people who work for the public, he's attacking our people who were in the Embassy that was blown up in Beirut, who were in captivity in Iran, as well as paper pushers in Washington.

He appeals quite successfully to the American public's conception that the 3 million Federal work force is made up entirely of lazy, overpaid bureaucrats. Less than 7 percent of the Federal work force works in Washington. Even Members of Congress aren't aware of that.

There's one thing to be said about this work force that makes it a particularly good place to examine the whole question of cultural and deliberate bias by sex. And that is that every occupational skill that you can find in the private sector will be found someplace in the Federal work force.

In addition to every single occupational skill that is required for some job in the private sector, there are occupational skills and educational requirements for specific kinds of jobs in the Federal Government that don't exist any place in the private sector.

So if you're looking for a perfect cross-section of the Federal work force that goes from the lowest kind of simple manual labor to the most sophisticated kind of research—ranging from people who scrub the floors in Federal buildings to people who search for cures for cancer in the National Institutes of Health—that's the Federal work force.

And the study that Mary Rose Oakar has developed and has now been passed by the House—and I trust it will do well in conference with the Senate because she'll be conferee. And the President wants the other part of that bill. She very skillfully applied a heretofore Republican tactic of attaching the good bill to a piece of legislation that provides for something called merit pay, one of those mysterious new formulas that the President has to make everybody

work harder for less. Thereby, the taxpayers believe they're getting more for their money.

Again, with her leadership, that's been worked out so that Federal organizations believe that the version that came out of our committee is fair. The Senate agrees, the Republican Senate agrees with us on that. The only matter that will be in conference is the pay-equity issue.

And while I don't want to preach to your witnesses, Mary Rose, I think it's important that everybody—let the Senate know they don't want to see the Senate become responsible for stopping your initiative in its tracks in that conference, because they're afraid the White House won't sign the bill.

I have a suspicion, particularly after the nominations are through on Wednesday night and history has officially been made in this country, that you'll see some changed rhetoric and at least superficial appearances between now and November—of a newfound understanding of issues like this.

So I'm optimistic that your bill is going to pass.

Thank you.

Ms. OAKAR. Thank you very much, Mr. Chairman. And again I want to thank you for your leadership.

I was overwhelmed by the vote on the House floor, and I was even surprised that the minority leader of my subcommittee, who vigorously opposed the bill and had had several gutting amendments, bit the bullet and voted for the bill.

Mr. FORD. He has to live with you after this.

Ms. OAKAR. In addition to that, I have great concerns about the Senate because I know that the President, as you said, vigorously opposes the concept of pay equity. He's on the record opposing it, his staff opposes it, and Dr. Devine has vigorously opposed it. And when we talk about Dr. Devine, we have to understand that we're talking about the same mentality as the President.

If the Senate hold up the conference committee for any reason, it will be because of the pay equity portion of the bill. But I know your leadership will help them, perhaps, see the light.

I'm really delighted to be here in such a beautiful city, having this hearing. We have two distinguished Congresswomen with us today. One is the Honorable Barbara Boxer, whose picture has made news all over the country, in a dynamic photo with Geraldine Ferraro. And I think that picture—if any of you have not seen it, you ought to get a copy—demonstrates the jubilation that all of us feel in terms of the desire to have a woman on the ticket, and Geraldine Ferraro, in particular. And I'm very happy to have Congresswoman Barbara Boxer, who represents a good portion of the greater San Francisco area.

I would also like to introduce at this time one of the most thoughtful people in Congress who has been a leader on so many issues, that relate to my district, like our ports and women in business.

But one of the greatest bills that I think this Congresswoman has sped past is—sometimes we take for granted the Fair Credit Act that gave women access to credit. Can you imagine that women never had credit in their own names until Lindy Boggs did the great work of the Banking Committee in the 1970's. She was one of

my many candidates for Vice President. Whenever they talked about needing someone from the South, I always thought that it should be Lindy Boggs.

We're so happy that her leadership will be in the legislative branch, along with Barbara's. I want to thank you both for being here.

Barbara, perhaps we will defer to you in view of the fact that you are a hostess,with so many events going on right now. If you'd like to make a statement, we'd be happy to have it.

STATEMENT OF HON. BARBARA BOXER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. BOXER. Yes, Madam Chairwoman. I will be very brief. And I would like to state for the record that we all here in San Francisco welcome you and your fine chairman. Both of you are great leaders in the House of Representatives and understand these pay issues better than anyone else. I know that because I had the honor of sitting through, from the start to the finish, the entire discussion surrounding your pay equity bill.

I've never seen such overwhelming support for a very controversial issue. And the reason was your skill and your presentation and, of course, the evident intelligence of the bill itself. It made a lot of sense.

All we're saying in your bill, Madam Chairman, is that we see that two out of three adults in poverty are women. We're taking a hard look at that statistic within our own Federal work force, and we're asking the question, why? We're not predicting any outcomes. We're just looking at it and asking why; a very very simple question.

It's amazing to me that this administration is afraid of the answer. They're obviously afraid of the answer. But we're going ahead, and we're going ahead at a time that, as Chairman Ford said, couldn't be more appropriate. And it couldn't be more appropriate for this city to hold such a field hearing because in this city women are leaders. We have a female mayor, as you well know, the Honorable Diane Feinstein. We have 6 out of the 11 members of the board of supervisors who are women, including the president of the board of supervisors; and the two Members of Congress from here. One that I have the great privilege of sharing my representation with, of San Francisco, is Sala Burton, who I believe you'll be hearing from in a little while.

So this is a city and a Bay Area that understands the importance of fairness to women, fairness to all people; diversity. And the fact that you're here today gives me great honor. I'm happy to welcome you to San Francisco.

I'm going off to the Soviet consulate to see if we can have a little chat about some of the human rights problems that are going on over there. Otherwise, I would stay through the hearing.

I'm privileged to be here with my wonderful friend and colleague, Lindy Boggs. And I wish you well. I look forward to working any way I can with you as we see this bill become law. Thank you very much for the honor of being here today.

Ms. OAKAR. Thank you very much, Barbara. And good luck.

Mr. FORD. Madam Chairwoman, before she leaves, and I know she has to rush—she's always running someplace—I think I should tell you that word has come to me that Gerry would like very much to campaign with you and Mary Rose and me so she'll look tall enough——

[Laughter.]

Ms. BOXER. Bring along Barbara Mikulski.

Ms. OAKAR. Good luck.

I met with some refuseniks in the Soviet Union and they're really so oppressed, as their human rights have been taken away. Under this administration, of course, we have seen a tremendous decline in immigration.

Ms. BOXER. We hope to bring up that subject.

Ms. OAKAR. Good for you. And thank you very much.

Lindy, we're thrilled to have you, as well. Thank you very much for being here.

STATEMENT OF HON. LINDY BOGGS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Ms. BOGGS. I'm delighted to be here, Madam Chairman, Mr. Chairman. And I'd like to give a little historical perspective to the necessity of having your bill prevail within the conference report and be enacted and signed into law.

I was, indeed, on the Banking Committee, and during that service I was able to go through the legislation that took sex and marital status as some of the areas in which people could not be discriminated against in the Small Business Administration loans; and the bill allowing a spouse's income to be considered in home mortgages and, of course, the Equal Credit Act.

Since 1977, I've been on the Appropriations Committee. And while I've been there the question that I have asked the most consistently and persistently, I'm sure some of the agencies and departments would declare, is about their hiring, promotion, training, and retraining practices; about how the Equal Opportunity Commission is being conducted, and about such things as merit pay and bonuses; and promotions above that, the magic GS–9 level, and into the more important levels of the Government.

I've discovered that until I began asking the questions, even though the department heads and agency heads were supposed to make such recommendations at the end of each fiscal year about what should be done, and what had been done, that they were not really prepared to answer. And now they come prepared to answer. And I've discovered that several of them, who were very thoughtful people who have come aboard at different times since 1977 into the Government, are appalled by the meager efforts that have been made and by the track records that they have acquired.

I've also been very interested in my appropriations work with the National Science Foundation, with NASA, and energy and water resources development and various scientific and technological areas of Government experience and responsibility. I feel so strongly that we must, indeed, make all of our children live it, science and technology or they cannot communicate in a scientific age.

But, in addition to that, we have to make certain that women and minorities, young girls and young men, of course, but especially young girls, are brought into fine training, scientific, and technological opportunities so that they won't enter the scientific age at the same low level that women entered the industrial age.

I was very pleased when one of the new Commissioners of the Tennessee Valley Authority had a survey made of his own agency about where women were in the agency, what entry level they came into, how often they were promoted, and how many of them received the special bonus offers at the end of the year. He was appalled at their poor track record, and decided that he would look at the records of some comparable agencies and departments in the Government.

And now I have this wonderful listing, with the percentages there, to be able to ask his colleague to come before our committee.

It is a dismal record and it must, indeed, be improved.

Very recently, before the entire Appropriations Committee, we were able to get in an amendment to the report language, asking that a study that has been done of the State Department's treatment of women in the Civil Service and Foreign Service be looked at carefully so that the findings there can be addressed. The State Department was selected because, of course, it's our window of America to the world. And how we treat women in the State Department is a reflection on the whole United States of America.

So that has been passed in the Appropriations Committee and I'm hopeful it will work in tandem with your examination and your study commission that will be set up.

You could not be doing more important work, Madam Chairman. And I know you have such full backing from the chairman of the full committee. And I just wanted to come to commend you, to thank you, and to impress upon you the necessity for having this bill finally passed in the conference report and signed into law.

Ms. OAKAR. Thank you very much, Lindy.

You know, we're very grateful to you. Those of us from Cleveland—by the way, if I could just divert for a minute, are very appreciative of your wonderful work on the Appropriations Committee. You were very helpful in us having our center at Lewis Research. I know your colleague on the committee, Lou Stokes, did a lot of prodding, but you were so open to encouraging NASA to give our center, which is the only center in that region, the Electrical Energy League. We did get that; I'm not sure if you know it.

But we're just so grateful for your leadership on so many things, and your unselfish qualities; whenever it comes to things of that nature that will really enhance areas throughout the world.

And your work on the State Department appropriations is very important because we feel strongly that more women ought to be in policymaking roles that relate to foreign affairs. Most women in the Federal Government are on the six lowest levels and make about $11,000 less a year than most men.

We're honored that you took time out to testify. I know there are so many things going on in this hotel that you could be at, let alone this hearing. So we're very grateful.

Mr. FORD. Thank you very much. I'd just like to make one personal comment about the gentlelady from Louisiana. She's had a big impact on my family. My son came out of high school about as bad a male chauvinist pig as I was in those days. I make no bones about it. It was fairly typical of my generation—those of us who served in the service and thought we had achieved some special status and never really stopped to be observant.

He was going to Tulane, thinking at that time, unfortunately, that he wanted to be a doctor. He escaped as a lawyer. But a dear friend of ours disappeared in Alaska on a congressional trip. There it was a special election, and she ran, and John Ford became involved for the first time—he had never really been involved in one of my campaigns—on the campus of a school we don't think of as a bastion of great liberality. Maybe you do in Louisiana; we don't think that way up North.

But he was in a group of very energetic young people who got all turned on by this lady who was running for Congress. And he came home and he said, "Dad, I really like this politics. I want to tell you something; that Lindy Boggs is a tough lady." And he still believes that. I was very grateful for the fact that he not only changed his perspective to women—just in time because he married one who was a lawyer—but you also turned him on to the political process. And he's now an energetic, active Democrat, I'm proud to say, and I attribute that to the guidance you gave him.

Ms. BOGGS. Well, I thank you for giving me the compliment, but he is your son, you know, and I'm sure he would have become turned on.

John is a magnificent young man. He is a redhead with a good temper. He did some splendid position papers for me, arranged meetings for me. But he became a real radical because he was involved in a group who had CB radios in their car, and when anyone was tearing down my posters or signs, they'd all get on their radios.

I'm a CB buff. My handle is Crescent Lady. And they'd say, "Crescent Lady signs being taken down at such and such location." They'd converge there and put my signs back up and chase the molestors away.

But he is, indeed, a splendid young attorney now in Washington and, I'm very pleased to say, working hard for the National Democratic Party and continuing to help me in my campaigns.

Ms. OAKAR. Thank you very much, Lindy. We're really grateful.

Our next witness is Mr. Gerald McEntee, who is the president of one the fine unions that has really paved the way for seeing to it that the pay equity laws are enforced. As a woman who is not a member of this union, I can honestly say that your efforts have been a real benchmark for the manner in which so many women ought to be treated in this company.

Jerry is president of the American Federation of State, County & Municipal Employees of the AFL–CIO.

Thank you very much.

STATEMENT OF GERALD McENTEE, PRESIDENT, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, AFL-CIO

Mr. McENTEE. I want to thank you for the opportunity to be here.

I am the president of AFSCME, a public employee union that represents over a million workers, almost half of whom are women. AFSCME is pleased to join with you, Representative Oakar, in supporting the rightful claims of America's working women to equitable compensation, and we commend your leadership on pay equity, an issue of such paramount importance to America's workers.

Because of your efforts, the Federal civil service system soon may be brought to the threshold of providing a compensation system for its own work force that complies with Federal antidiscrimination laws.

My purpose today is not to restate the pay equity issue. Volumes of testimony before congressional committees over the last several years have provided irrefutable evidence that pay for work done traditionally by women reflects overt discrimination, carried over from an age long past, when sex discrimination in all aspects of employment was not only pervasive but accepted as part of the natural order.

Statistics have been cited and re-cited which dramatically translate how wage discrimination adversely affects the ability of women to support themselves and their families. Rather than retreading that well-worn path, there are three points I would like to make.

First, pay equity is already a fact of life for thousands of men and women across the country. Second, as advocates for this cause, we have the law and the momentum on our side. Third, the primary roadblock to achieving pay equity for untold millions of working women is Ronald Reagan.

With respect to the first point, significant progress has been achieved since 1981. The collective bargaining approach has worked for thousands of employees. For example, 9,000 State employees in Minnesota already have inequity adjustments in their paychecks, under legislation that has become the model for all other States. All public employers in Minnesota will have to have a nondiscriminatory pay system in place by 1987. Bargaining has worked from Spokane, WA, to California to New York.

It was just down the road in San Jose, where in 1981, AFSCME Local 101 courageously waged a strike over the then unprecedented issue of pay equity. The workers' determination and perseverance was rewarded by a settlement providing substantial pay equity adjustments for over 60 female-dominated classifications.

By the time other public employers had negotiated pay equity agreements with their workers, State and local jurisdictions were introducing and passing pay equity legislation, and Governors were setting up task forces. As of today, hundreds of thousands of public employees throughout the Nation are well along the road to pay equity.

This flurry of activity over the last few years has been the result of a firm legal foundation, beginning with the U.S. Supreme Court

decisions in *County of Washington* v. *Gunther,* and *IUE* v. *Westinghouse* in 1981, and the U.S. Federal district court decision in *AFSCME* v. *Washington State* last year.

Under these rulings, title VII, the Civil Rights Act clearly prohibits sex discrimination in compensation, regardless of whether the jobs being compared are similar or dissimilar. The progress made to date on pay equity is truly remarkable because it has been accomplished without one iota of assistance from Federal agencies established to enforce title VII. However, the lack of enforcement has made it necessary for unions and individual workers to file charges and lawsuits against a number of public employers who choose to ignore the requirements of the law.

Lack of enforcement also has meant that for millions of women and men who labor in the private sector, in underpaid female occupational ghettos, pay equity remains, if not an impossible dream, a highly improbable one.

Because of the absence of enforcement, the extent of non-compliance with title VII rivals the extent of noncompliance with the Volstead Act during prohibition. The responsibility for this outrageous state of affairs can be placed at the feet of one man—Ronald Reagan. Yes, Ronald Reagan, not something as amorphous as the administration, but Ronald Reagan himself.

In 1964, George Wallace became a symbol of racism when he literally blocked the door to educational opportunity for blacks at the University of Alabama. Ronald Reagan represents that same obstructionist attitude, as he blocks the door to economic justice for working women. To Governor Wallace's credit, although his policies were abhorrent, he took responsibility. He didn't send his underlings. Ronald Reagan, on the other hand, is attempting to avoid personal responsibility for the excesses of his appointees by an amiable demeanor and his constant attention to his nice guy image. We have all been told that no matter what he does on the issues, the American people see Ronald Reagan as a nice guy.

I'm here to say that history is replete with amiable scoundrels, and that Ronald Reagan's nice guy image crumbles under even the most cursory examination.

A nice guy wouldn't let his Assistant Attorney General for Civil Rights even consider weighing in against 20,000 men and women in Washington State who have battled for a decade to achieve economic justice. And a nice guy would at least question the competency of this same Assistant Attorney General who claims that in 3½ years the Department has had no occasion to initiate a wage discrimination case.

A nice guy wouldn't stand by and let his EEOC warehouse over 270 wage discrimination cases without investigation, on the pretext that there is no policy even though guidelines have been in place for investigating *Gunther*-type cases since 1981. And, really, wouldn't a nice guy at least reprimand his Civil Rights Commission Director for calling pay equity a radical idea that could cause economic chaos.

Who could be surprised that employers feel no need to comply with the law. Precious few laws would be obeyed if enforcement was as nonexistent as it is in the area of sex-based wage discrimination. If the IRS enforced the tax laws as feebly as the EEOC and

Justice are enforcing title VII, the Nation would be teetering on the brink of bankruptcy in less than a year.

The final destruction of Ronald Reagan's tarnished nice guy image came recently during the shabby escapades of Messrs. Byrnes and Devine over your pay equity legislation. Mr. Reagan stood mute as Mr. Byrnes, while getting paid as a civil servant, plotted strategy to use your pay equity study to create—and I quote—"to create disorder within the Democratic House, pitting union against union, and both against radical feminist groups."

He remained silent as Director Devine attempted to implement Mr. Byrnes' strategy in his meetings with the Federal unions, and he didn't even blush when Byrnes and Devine presented an apologia to your committee that belonged in Gepetto's workshop, rather than in the Halls of Congress.

Employers may think Ronald Reagan is a nice guy, but when it comes to fairness and equity for women, Ronald Reagan is not a nice guy at all. The people he hires are carefully selected precisely because they will pursue Reagan's outrageous policies.

It is our task to ensure that Ronald Reagan be held accountable by the electorate for the policies of his hired hands.

During this campaign, anytime Mr. Reagan has the unmitigated gall to suggest that women should vote for a nice guy like him, it must be the mission of every concerned Democrat to bring his public image down to the level of his public performance. Our union will work tirelessly to that end between now and November. Our half-million women members would let us do no less.

In closing, I would like to mention a public service announcement produced by the EEOC which I recently heard.

Two Dallas Cowboys were talking about the importance of teamwork, and Billy Joe Dupree says, "Players have to work together for a football team to be successful. It's the same thing with jobs. Employers and employees must work toward the same goal."

The film breaks to Clarence Thomas, the chairperson of the EEOC, and he says, "equal employment opportunity is the law and it will be enforced. But teamwork also pays off. For further information call the U.S. Equal Employment Opportunity Commission."

The question is, Will they really answer?

The Washington State employees called and called, and got no answer. Their charges were never investigated. Hundreds of other complainants wait for an answer. You are now proposing new legislation to ensure that someone does answer. It is a sad commentary that such legislation is needed.

We all, we all eagerly await the day next January 20 when Walter Mondale and Geraldine Ferraro make sure that not only the EEOC answers, but that the EEOC initiates some calls of their own.

I want to thank you on behalf of our union for the opportunity to appear before your committee.

Thank you.

Ms. OAKAR. Thank you very much.

Mr. Chairman, do you have questions?

Mr. FORD. No. I think it was a wonderful statement.

Ms. OAKAR. I did, too.

Let me ask you one question. You mentioned there's more than several cases of litigation that your union has been involved in. It wouldn't be necessary to go to court if EEOC was, in fact, doing its job and enforcing the job, is that correct?

Mr. McENTEE. That's our feeling. We feel that the laws are on our side. The law, the legal precedents have already been set, but the fact that over the last 3 years, with our complaints and with our requests for investigation, they're not heard, and there's no movement by the EEOC. And, as a result, our union has to move into the courts.

We moved into Washington State; and let me say to this committee, at a cost of almost $500,000, almost a half-million dollars, to this union called AFSCME, through the courts, and we're not finished with the case. We're presently in New York City on the same kind of issue. We're presently in court in Nassau County in New York on the same kind of issue, and we are forced to go into court after court in this land because of the lack of cooperation and initiative from Ronald Reagan and the administration.

Ms. OAKAR. So it's your definite feeling that they are not, indeed, enforcing the law and, in fact, in some areas there's an attempt to thwart the law by the suggestion that you—I think you suggested that the Justice Department may intervene against the position on the outcome of that case in Washington?

Mr. McENTEE. That's absolutely correct. We found that, immediately after the judicial decision in Washington State, we had a number of employers, public employers, that reached out for us to begin to initiate some discussions on the issue through the process of collective bargaining. And that's the way we believe it should be done. Nassau County is a typical example of this.

Then the Assistant Attorney General of the United States, by virtue of public statements, gave the impression and perception that they were seriously considering weighing in on behalf of Washington State in that case, and that provided a chilling atmosphere all across the country in terms of public employers. And so that the initial spark that we saw has been diminished.

Ms. OAKAR. I want to thank you. I think you not only do a lot of good work for your own union members, but for women across the country by those efforts which are of great expense to your union, as we know. I think it's really one of the great examples of a union really feeling a great commitment toward its members. AFSCME really shines out in that area.

I commend you, Gerry, in all the good work that your staff and others do.

Mr. FORD. Madam Chairman.

You've raised something again in response to the question from the Chair. You noticed, Gerry, during consideration of this legislation, the foremost spokesperson for the administration on Mary Rose's subcommittee, both in the subcommittee and the committee, was joined by Mr. Devine in insisting that if the study we're trying to mandate takes place, the same terrible thing that happened in Washington would happen to the Federal Government. She nailed him a couple of times, and it finally occurred to him that what they seemed to be acknowledging was that if you find that there is, in fact, blatant discrimination, the administration won't do any-

thing about it. But somebody, like the unions, is going to sue us and then we'll have to pay more money.

Indeed, the record will show that the argument was made that it would cost millions of dollars to the taxpayers because, as a result of this study, some uppity women would sue, either directly or through their unions. And we'd have to pay them fair pay, and, therefore, this was too expensive. And it was a budget-busting bill.

Believe it or not, that argument was made for months. Something happened by the time we got to the floor, and the argument disappeared. They refused to tangle with it any longer. But wouldn't you agree that this suggests that the mindset is so deep with those people that they would have no intention of looking at the study and taking the action with the study if it indicated that action was necessary.

Mr. MCENTEE. I think that's correct. I think that's indicative of the record of this administration on so many issues. We couldn't agree with you more.

Ms. OAKAR. You know, Mr. Chairman, when the State of Minnesota conducted a study and then voluntarily sent the motions through to correct the inequities, they found that their payroll, as I recall, was increased by 2 or 4 percent; which was not an astronomical amount. The morale and the productivity of the employees, who were in those lower level jobs and were upgraded, increased so much that, indeed, it paid back the State a hundredfold. All that hyberbole by the administration is just outrageous.

The individual you mentioned, who wrote that memo, makes more than twice the amount of the average male employee who works for the Federal Government. He makes three times more than the average female; and as a political appointee making almost $60,000 a year doing nothing but writing outrageous memos like that.

First of all, I would like to acknowledge someone in the audience who has been a leader in her State. Dorothy McJermid, who is in the audience, is a long-term member of the Virginia House of Delegates. Dorothy, we know you've lead the efforts this year to have pay equity study in Virginia. And I'm very very happy to have you here at the hearing.

Our next witness is Dr. Mary Gray, who is the president of the Women's Equity Action League. WEAL is another great women's organization that represents such a cross section of women. We're delighted to have you here, Mary. I know you're very busy today, and there are all kinds of things that are going on within this building that you must attend. Thank you very much for appearing personally.

STATEMENT OF MARY GRAY, PRESIDENT, WOMEN'S EQUITY ACTION LEAGUE

Ms. GRAY. Thank you. We're very glad to be here.

I am president of the Women's Equity Action League, which is a national organization specializing in women's economic issues. WEAL has taken a leadership role on a number of issues relating to women's economic equity, including insurance discrimination,

inequities in Social Security, and the failures of the private pension systems to provide for women as workers or as wives.

We recognize, however, that the surest route to economic security is through the income women produce themselves, as workers and as businesswomen. Thus, the effective implementation of laws designed to eradicate discrimination in employment is a primary focus of WEAL.

The fight against employment discrimination has two major fronts: First, to make sure that women have access to all areas of employment. I was very pleased to hear Congresswoman Boggs speak of increasing opportunities in science. As a computer scientist and a statistician, as well as an attorney, I've long been very concerned that not enough women get into the scientific and technical fields where opportunities are very good right now.

However, the second problem still exists, and that's to eliminate discrimination affecting the wages that women earn. The grim realities of job segregation and low earnings for women have been well documented, both before this subcommittee and other congressional panels in the past. Until very recently, antidiscrimination laws were used primarily to break down employment barriers. Attempts to attack sex-based wage discrimination in employment were argued on the very narrow grounds provided by the Equal Pay Act of 1963. Even women's advocates did not look at the wage-setting process throughout an employer's work force, but looked only to salary comparisons between individuals working in the same job.

We know now, however, that sex bias also enters into the determination of salaries across job categories. And efforts to eliminate this form of wage discrimination have become a woman's movement all its own, encompassing union efforts, in which AFSCME has certainly been a leader, to raise the wages of female-dominated jobs through collective bargaining; State legislative action to examine government pay structures, and the development of research and public education materials on the wage-setting process. And, as a result of the 1981 Supreme Court decision in *Gunther* v. *County of Washington*, we see the development of litigation applying title VII to a wide range of wage decisions by employers.

WEAL congratulates the Chair for her efforts to activate the Federal Government in this movement. H.R. 5092 properly addresses two responsibilities of the Federal Government which have so far been neglected.

First, assuring that as the largest employer in the United States, the Government does not itself discriminate in wage setting. And, second, properly using its authority as a civil rights enforcer to ensure compliance with antidiscrimination laws by all employers.

Last April, representatives of federally employed women, and others, testified before this subcommittee, outlining the evidence of both job segregation and depressed wages for women in the Federal workplace. It's crucial that the Federal Government begin the process of a thorough analysis of its wage scales, as well as the hiring and promotion practices which result in such severe sex segregation. It's equally clear that this analysis must be done by an agency other than the Office of Personnel Management, particularly since the current officials of that Office have expressed hostility to any

examination of the Federal wage-setting process and have, in fact, sought to undermine these efforts by portraying the pay equity movement as one threatening the wages of males.

Similar administration resistances has resulted in no action by the EEOC, by the Office of Federal Contract Compliance Programs, or the Department of Justice, to begin to broaden their analysis of wage discrimination complaints since the *Gunther* decision. This failure also has been well documented by the House Committee on Government Operations, which stated in its May report that the EEOC has taken no action on charges in cases of sex-based wage discrimination other than straight Equal Pay Act cases since the June 1981 Supreme Court decision in *Gunther*. It's been 3 years and that's really too long.

Women and other groups have always relied on the Federal Government to take the lead in developing and interpreting case law so that the broadest possible protection can be achieved under these laws. Very few women's organizations have the half-million dollars necessary to undertake a case like the AFSCME case.

In this instance, the executive branch has an opportunity to develop case law deciding the parameters of illegal wage discrimination very carefully—one step at a time—and it's chosen, instead, to do nothing until all conceivable questions about the most difficult cases have been resolved. And, of course, no one knows that anyone will act then, either.

Officials of the current administration may believe that by refusing to act affirmatively to eliminate wage discrimination, the entire pay equity movement will go away. It won't. Congress must join with women's groups and with unions to assure them that it's not so. Passage like legislation that you have proposed would be a good way to do so.

Thank you, Madam Chair, and thank you, Mr. Chairman.

Ms. OAKAR. Thank you, Doctor.

Mr. Chairman, did you have questions?

Mr. FORD. No; I didn't. But I would like to observe that H.R. 5092 in looks at the Department of Labor, EEOC, the attorney general. They're meeting the same kind of resistance we share with Mr. Brooks, the chairman of the committee from which you just quoted. I hope you take advantage of his presence in San Francisco to say hello. He'll be with the Texas delegation. I know he would be properly impressed if you took a minute to contact him and tell him how much interested you are in the action that his committee has taken.

Ms. GRAY. We certainly shall. We'll try to find him in San Francisco.

Mr. FORD. He's interested in your problem, believe me.

Ms. GRAY. I think that would help. But certainly you, Mr. Chairman, have been helpful as well; and, Madam Chairwoman, as well.

Ms. OAKAR. I have one quick question. One of the more recent arguments to surface in trying to pit various women against each other in this issue is a criticism that we've heard concerning women's organizations. Certain individuals have suggested that one of the reasons they're interested in dealing with the elimination of sex-based wage discrimination is to attract membership from lower income women. Impliar in this statement is the notion that the

only individuals in these professional organizations are upper income women.

Would you like to respond to that, because I think we need a response for the record. We have testimony from Judy Goldsmith of NOW, who is on the floor at another meeting. In any event, we have her testimony to submit for the record.

But how do you respond to those kinds of comments?

Ms. GRAY. Well, one of the primary concerns of WEAL has always been low-income women. Of particular concern are elderly low income women. We're also very interested in single heads of household who are predominantly women. We do have a special low membership fee for those who cannot afford our ordinarily modest membership fee. We do have a number of women who own their own businesses and are entrepreneurs who are members of the organization. But we also have a lot of very low income members, and we're looking out for their interests.

Many of us grew up in low income families and we realize how difficult the problems are, and we've worked very hard on behalf of all women. I think that it's not a divisive sort of thing at all. I think it's important for all women to work together and, certainly, we are interested in broadening our base of support and making women aware.

Some of the activists, of course, have been people who have a little bit more leisure time because they don't have to worry about not being able to get a job which pays them a living wage. But our membership is concerned with all women and our membership consists of women from all income strata: from the unemployed; from the elderly poor; from the single heads of households; from the students, we have a lot of students as well who have been hurt by a lot of policies not having to do with wage discrimination, but having to do with employment discrimination. So we are concerned with all segments of society.

Ms. OAKAR. I want to thank you for your help in the work that I've been trying to do on the inequities of social security and women. WEAL has always been among the finest witnesses, and your people have really helped me in trying to make people understand what those problems are. I know you've done a lot of work on the older women's behalf as well.

Ms. GRAY. Yes; we have.

Ms. OAKAR. Thank you very much.

Ms. GRAY. Thank you.

Mr. FORD. May I ask just one question. I represent a blue collar district in the industrial suburbs of Detroit. And I have been in the Congress for 20 years. And before that in the legislature. My women would be characterized as blue-collar workers and the wives of blue collar workers.

I find, interestingly, as one who cosponsored the original ERA Amendment in the House with Arthur Griffith, that over the years I get more criticism from women for my stand on issues that are as clearly identified by the media as ERA, than I do from the men in my constituency. And when I question them about it, I find that they don't identify with people like you, who are leaders of women's advocacy groups.

Now, I come from a background where the majority of the kids, including most of my family, came from parents who didn't go to college, and we sort of accepted, until the war changed that for us, that there were some people who did these things and some people who didn't. And we just happened to have the bad luck to be the ones who weren't going to do it.

I suspect that that's a part of the inertia in moving women, as it was with moving blacks and other groups that have joined together and have advocacy groups to speak for them.

I can remember in the 1950's and the 1960's when well-meaning white contemporaries of mine would say, "Well, I don't really have anything against Negroes"—they were still having trouble then using the word "black"—"but it's those groups like the NAACP and all those radical groups that cause me trouble." That's the kind of thing I hear from, not men, but women in my district.

What do you people in leadership in the advocacy groups do to try to address yourself to that—maybe not lack—but failure of communication of ideals in the way that appeals to those women as a realistic goal for them?

Ms. GRAY. Well, I think it is difficult. You have identified a problem that has concerned us. I've been a blue collar worker myself. I worked as a waitress and I worked driving trucks in the wheat harvest when I was working my way through college. So I do come from the kind of background that your constituents would share, to a certain extent, although it was in the farm Midwest rather than in the industrial Midwest.

I think many of the people are much like my mother and father, who had ambitions for me, and I try to direct it toward opening up all sorts of opportunities for their children even if they themselves, perhaps, don't identify with some of the things we're asking for. But I also do try to address the women who, for example, want better Social Security for themselves. The pension reform bills that we've been working on, this term, for example, I think is very poignant to women whose husbands, for example, have worked in some major company all of their lives and they have a very good pension, and they die just before they reach early retirement age. And the woman who has been a homemaker and who has stayed home and taken care of the children and has helped her husband then finds herself, suddenly, with no pension because there's no law requiring that the vesting that her husband has put into the plan will go to her. And I think if we try to make those issues part of our program, which WEAL has certainly tried to do, tried to make it important for the homemaker who stayed at home to see what it is that we're doing for her, as well as what we're doing more generally.

It's very frightening when you're middle-age and you've depended on your spouse all your life, to suddenly find that you have no recourse. You have no pension. You have a very small amount under Social Security. And I think those women are now coming to realize that we're doing something for them. We get letters from women all the time who have found that they do need the kinds of things we are doing. And what we ask them to do is to go back and tell the people with whom they live, and their children and their neighbors and their relatives that the organizations are working

for economic security for them. We want to make their pension secure. We want to give the displaced homemakers an opportunity to go out into the work force and be paid for the work that they're doing, for the skills that they've acquired even though they're different skills than some of the other people have acquired.

It's difficult. It's difficult partly because we don't have the resources. We don't have some of the access to media and some of the money that we would like to have, to get out to people. But we do try, and we do try to make it clear that it's for all women that we're working. It's for older women, it's for middle-aged women and, most of all, it's for their daughters.

Mr. FORD. One other question, apropos of the pay equity issue. In the 1960's when we were passing some of the legislation that we're trying to enforce now, we thought of ourselves as being progressive on the issues. We were concerned because of the conditions in the nonunionized work force, particularly of the old confederacy of two people working side by side, doing identical jobs, where they had a female payroll and a male payroll. It was a tradition, particularly in major industries in those days in the South like the textile industry. There's been a very poignant movie that's made about the young lady who led the fight and she's been in Washington, a very effective lobbyist.

We hit a plateau because a large number of women who had been in occupations where they knew they were doing the same job on the same kind of machine as a man were not getting the same pay and other benefits.

This same kind of woman I'm describing to you has difficulty in an area like mine, which is heavily unionized and has been for many years, where the idea that two screw machine operators or drill press operators would get different pay because of their sex has been gone since World War II. They can't understand what the argument is about.

When they hear people like the chairwoman talk about comparable work.

When you start talking about comparable worth and measuring what it takes to do it, to do a particular job or to be of value in a particular occupation, that has a lot of people confused and I'm wondering just how to measure it. I think I've started to understand what the next step is to having two people run the same machines making the same amount of money, but what about the one sitting in the office that keeps the whole thing going. She's—it's generally a she and she is generally being paid much less because she sits down to work, and it's traditional that she certainly is as important as the woman working on the machine out there or a man working on a machine. Nobody looks at comparable worth of her training and responsibility to the overall mission of that factory or restaurant, or whatever it might be.

If you were driving a truck, as a woman, they might have been able to understand that you should be paid the same as a man driving that truck. They could not understand if you were doing a job that women always have done, because they're neater with figures and more meticulous, and all the other cliches, why you should get paid as much as a truckdriver, because that's obviously harder work.

We think in the Federal Government that we have enough sophistication, along with a fantastically complex classification system, to have a study made that starts to look at the dimensions of occupations in terms that are different than traditional attitudes about occupations.

But I don't really believe that my folks are ready for that. I, frankly, get in trouble every time I support this lady on my left when she's making one of these fights because they just don't understand what she's talking about. I've been sort of brought along slowly to start to have some limited understanding. But somebody has got to really start explaining what it is that this is all about and in a way that makes politicians, as well as the people directly affected, understand what the problem is.

Ms. GRAY. I think you're quite correct. It's difficult. And I think we have to go in easy steps. I think there's a lot of public education that still needs to be done. You have someone to work with who certainly understand that the Federal Government is a good place to start, certainly, for a large number of reasons, because we do have the sophistication and because, after all, one should have one's own house in order before one goes into private industry.

But I think that there's an intermediate step that one can explain to people like your constituents and like the people to whom I speak.

There's a famous case that's around 10 years old that's not a new case like the *Gunther* case, where an insurance company was hiring all of its women as claims representatives and all of its men as claims agents, or some similar sorts of titles. And they were doing exactly the same sorts of jobs. The only difference is that the men's job classification led to management sorts of things, and for doing the same job they were paid very different salaries, and the opportunities that were open to them were very different. And that's sort of an intermediate step.

The same thing goes on in banks, where people are doing the same sorts of jobs, but their titles are different, and the predominantly female jobs are really being paid at a different rate than the predominantly male jobs.

Waiters and waitresses, for that matter, are a good example. And, as I say, it's a field in which I worked. And I know that the salaries vary greatly. And I think that people do, by gradual steps, understand that as we move from the two people on the same assembly line to two people who are doing very similar jobs who have different job titles and different opportunities for advancement, and then into the more difficult problems. And we do need to work at it, and I think these bills are a good first step.

I wouldn't like to suggest that the whole problem is going to be solved. I don't think it will be.

Mr. FORD. We solved the problem in the 1960's, and now in the 1980's we're finding out we didn't solve it at all.

Ms. GRAY. Well, unfortunately, we didn't even solve it along those lines because in my field, which, as I——

Mr. FORD. Well, in the sense that we passed——

Ms. GRAY. Well, we passed the laws, but it's not true, for example, that women statisticians are paid as much as men's statisticians, and you would think that would be a relatively easy and

straightforward problem. And, of course, it isn't and it's partly a failure of the agencies to enforce the law, and it's partly that old attitudes are very difficult to get rid of, as much as we try.

Ms. OAKAR. Thank you very much, Doctor. And thank you, Mr. Chairman. I think your comments are well taken.

I think the next witness probably will address that point because their membership represents one of the more obvious professions where the value of what they do is not compensated to the degree that it should. Nurse make on an average, if I'm not mistaken, less in a year than a doctor makes in less than a month. Yet, the nurse is with the patient more than any other person in the health delivery system.

Our next witness is—and we're happy to have again another president of an association, the president of the American Nurses Association, Ms. Eunice Cole.

Thank you very much for being here, Eunice. I didn't mean to take any of your comments away from you. Of course, my chairman is one of the real leaders in so many of the social programs. If you go to his office, you'll see all those bills that have been signed since the 1960's that meant so much to people in education and so many other areas that relate to the needs of all people.

We don't have many people of his caliber around as much as we did in those days, and that's why he's like a beacon of hope. We're really happy that he's in our corner on this because if he weren't, we would not have any progress made in these areas.

So thank you very much for being here.

Mr. FORD. Madam Chairman, I'm going to ask for part of the transcript. My daughter, as you know, is a nurse, and I'd like her to hear that somebody says that her dad does something right. She's been telling me how much nurses get paid, very forcefully for several years now, and it will take a little pressure off if I show her the transcript and have you certify that I am——

[Laughter.]

Ms. OAKAR. Sure.

Ms. Cole.

STATEMENT OF EUNICE COLE, PRESIDENT, AMERICAN NURSES ASSOCIATION

Ms. COLE. Before I begin, I would like to tell you that I believe the hope is in our next generation. I have a son; I have no daughters. And he relates very closely to the problem. His explanation to one of his friends who was a teenager at the time, his same age, was, "I believe what ERA is all about is that if you and I both go to school, to college, and we both have the same education, and you get paid less for what you do than I get paid for what I do, I think that's what equal rights are all about as far as men and women are concerned. And I think that's what my mama is worried about." That was his explanation to this teenager at 13, so I think our hope is with the next generation.

I would like to say that I'm delighted to be with you this morning, and to tell you that I am Eunice Cole, the president of the American Nurses Association. And I'm pleased to appear today on behalf of our more than 180,000 members, now, to address the cur-

rent lack of adequate enforcement of Federal wage discrimination laws. And we believe that this is a major issue that you've certainly been discussing this morning, and we've been talking about a long time.

Ms. OAKAR. If I could just interrupt you.

The chairman served when our colleague, Geraldine Ferraro, was chair of the subcommittee. In September 1982, she, Congresswoman Schroeder, and I held hearings on pay equity. You might be interested in knowing that the individuals that Gerry wanted to help her the most, when she found out that she was going to be the vice-presidential candidate, were among others, from the American Nurses Association. It's a great tribute to your organization, that Gerry asked that Joanne Symonds and others to please come over and help her.

I think it's a reflection on the great affection that all of us have for your organization.

Ms. COLE. Thank you.

We would like to commend you for the recent passage by the House of H.R. 4599, which requires the Office of Personnel Management to grade classifications by the Federal Government to determine if female-dominated positions are graded lower than jobs requiring lower qualifications, that are held predominantly by men.

This action represents a major step toward achievement of pay equity for all working women.

In addition to our strong support of that legislation, we would like to express our endorsement of H.R. 5092, which would require periodic reports by EEOC, the Secretary of Labor, and the Attorney General, describing actions taken to enforce Federal laws prohibiting discrimination in compensation on the basis of sex, race, religion, color, or national origin; and to reaffirm the provision in Federal law which declares that equal pay should be provided for work of equal value.

Registered nurses, over 97 percent of whom are women, are painfully aware that the higher concentration of women in a profession, the lower the wages in relation to the occupation's worth. While Federal laws have existed and do exist which prohibit discrimination based on gender, Federal agencies charged with enforcing those laws have been woefully negligent, and we're certainly aware of that.

In particular, the EEOC has been less than aggressive in its pursuit of alleged cases of wage discrimination. And we are particularly supportive of section III of the bill which would require that the EEOC carry out an educational program on eliminating discriminatory wage setting practices, and to conduct a thorough study on all pending cases alleging wage discrimination.

This latter requirement is particularly critical in light of an experience we have had with the EEOC, and I'd like to relate that to you, although I know you know the story well and have heard it before.

In August 1977, ANA on behalf of the nursing faculty at the University of Pittsburgh, filed a sex discrimination charge, alleging that the university discriminated against women faculty members at the nursing school by paying them lower salaries than those

paid male faculty in other schools. This was in violation of title VII of the Civil Rights Act.

On August 1, 1978, the EEOC issued a subpoena to the university demanding the salaries and job information regarding every professor employed in four separate professional schools of the university; namely, nursing, social work, health-related professions, and pharmacy. Such information could support the charge of discrimination if women professors performing similar duties were paid lower salaries than male professors.

The university refused to submit the information, claiming that salaries could not be compared because of the vast differences between faculty members teaching different disciplines.

In November 1979, the EEOC applied for an order enforcing the subpoena, and in March 1980 the district court issued such an order, rejecting the university's claim that information concerning the faculty of the four schools was not relevant.

The court of appeals affirmed the district court's decision, finding that the information requested was, in fact, relevant to the charge. The issue was resolved by the Supreme Court in October 1981, when it denied review of the lower court's decision. Consequently, the EEOC assigned an investigator to this matter. Thus far, however, EEOC has failed to pursue the case that's been going on since 1977.

In spite of continual correspondence with the EEOC and assurances that the matter will be investigated, EEOC has not taken any action since the court's decision that was made in 1981.

It is a disgrace that after 4 years of fighting for the opportunity to pursue this case, the Federal Government has refused to carry out its responsibilities. We believe that this is a good example of the treatment of wage discrimination cases by EEOC, and argues forcefully for better enforcement of the law, and for passage of H.R. 5092. Hopefully, this legislation would bring to light such instances of inadequate enforcement by the Commission.

I would also like to briefly discuss with you another more recent case in which ANA, in conjunction with the Illinois Nurses Association, has filed a charge of discrimination with the EEOC on behalf of nurses and other women employees in the State of Illinois.

The complaint was filed December 22, 1983, and charges that the State engaged in illegal sex discrimination against female employees in female-dominated job classifications on the basis of wages and other terms and conditions of employment; and, again, in violation of title VII, as well as the Illinois Human Rights Act.

This complaint is based on a job classification study that has been conducted by the State and was released in June of 1983. The study focused on 24 job classifications, 12 female-dominated and 12 male-dominated, which comprise almost 28 percent of the State work force. Each job classification was given a certain number points based on that evaluation. The more complex the job, the higher number of points assigned to it.

Some of the findings of this case which are interesting to us and, I'm sure, to you as well, are: No. 1, the predominantly female classification of "nurse III" was assigned 415 points in the study for job complexity, as opposed to L81 points for the male-dominated classi-

fication of "stationary engineer." Nevertheless, stationary engineers earned $12,500 more last year than did RN's classified as "nurse III's."

The second point: RN's in the nurse IV classification earned $4,000 less last year than accountants, the majority of whom are men; yet, the nurse IV classification was rated higher in overall job complexity.

The third point: There are approximately 58,000 employees in State service, of whom 57 percent are women. However, women are less than 20 percent of those State employees who earn more than $26,000 a year, but more than 85 percent of those employees who earn less than $16,000 a year.

The fourth point: Of 1,200 occupational classes currently in use in the State work force, 655, or 51 percent, are male-dominated, and 234, or 18 percent, are female-dominated. Nearly 70 percent of all classifications are dominated by one sex or the other, with females occupying the smaller number of job classifications.

Regrettably, the State of Illinois conducted its own study which showed that female employees are underpaid relative to males holding comparable jobs, but has failed to take steps to remedy that discrimination. Consequently, a lawsuit was filed in Federal district court on May 24, 1984.

A major obstacle in eliminating discrimination and achieving pay equity is the lack of enforcement of existing Federal statutes, as we well know, that would prohibit wage discrimination on the basis of sex. It is essential, we feel, that agencies responsible for upholding these laws vigorously investigate charges of discrimination and begin to expeditiously pursue remedies to correct violations of the law.

The American Nurses Association would again like to thank you for the opportunity to appear before you, and to commend you once again for the kind of work you have been doing on behalf of all women, and to let you know that we will continue in our pursuit of this cause; and to tell you that while we know that all nurses will gain their rewards in heaven, we also believe that we deserve our just financial reward while we're here on Earth.

Thank you very much.

Ms. OAKAR. Thank you.

Mr. Chairman, did you have a question?

Mr. FORD. One.

Ms. OAKAR. On behalf of your daughter?

Mr. FORD. A slight correction on your opening statement about H.R. 4599. The bill would have required the Office of Personnel Management to conduct a study. You heard Jerry McEntee's reference to a memo. If you haven't seen it, it's a classic letter.

This is a great opportunity to pit radical feminists against labor unions and break up the Democratic majority in the House. And, therefore, the bill could be a good political weapon against that majority.

The chairwoman reacted to that by offering a substitute for her own bill on the floor, which passed, much to the chagrin of her most outspoken opponents. It relieved the Office of Personnel Management of that onerous task, and provided that it will be an inde-

pendent study conducted by a recognized firm with an expertise in the field—Tell them who is going to provide the list.

Ms. OAKAR. The varieties of unions that represent the Federal employees.

Ms. COLE. Excellent.

Mr. FORD. They're still trying to figure that one out.

I want to ask you one question regarding your testimony. I spent most of my time as chairman of education committees before this job, and most of my time was spent on education issues.

We passed what at that time was called the Sex Equity Amendment to the Higher Education Amendment of 1972, with the idea that we would direct schools, in effect, and educational institutions, to desex curriculum, counseling, career goals, and the rest of it. It seems to have worked rather well, although there are other problems created. We still have great trouble about whether women should play interscholastic football, things like that.

But the Carnegie Foundation conducted a study in 1983, late 1983 or 1984. Ernie Boyer sent me a copy of it. It has been said by many people that public education and nursing in this country have been supported traditionally by a constant supply of cheap labor, and that's part of the reason why schoolteachers represent, perhaps, the lowest paid—on an national average—profession of them all.

In the Carnegie study, they wanted to look at the impact of this policy change, and they started counting all the graduate degrees, on the basis of male and female, awarded in academic years, 1973 up through 1983. What they found was that when you graphed it, in law, medicine, engineering, architecture, and dentistry, the percentage of female degrees to male degrees, graduate degrees, went up; gradually at first, but then quite rapidly and constantly during that whole period of time.

The only other profession on there that went the other way was education. And at the same time, the number of women opting into graduate degrees in these other professions heretofore not heavily populated by women, were opting out of education. So that by 1983, when we were still graduating more women as educators than men, the ratio of male/female had done exactly the opposite in that 10-year period in what the other professions did.

My nonscientific observation from that is that the best and brightest of one-half of the population of this country, given the opportunity, is exercising their options the same way that males could have exercised their options before, and that professions that fell behind were not going to attract the best any longer.

That study didn't touch your profession. Has anyone taken a look at what has happened in the last decade or two decades in terms of the qualitative analysis of who's opting for your profession, as distinguished from 20 years ago or 25 years ago?

Ms. COLE. I don't think that we have any studies on record as to who is opting for the profession.

Mr. FORD. I don't mean the individuals, but has there been any perceptible change? It's easier when you're dealing with graduate——

Ms. COLE. I think the Institute on Medicine study that was commissioned by Congress does give some good information relative to

where nursing is, as far as education is concerned, and the levels of preparation.

There are more and more nurses who are now graduating from baccalaureate programs, and we believe that for the future, that is where nursing is going to find itself. Because of the complexity of the profession, we can no longer have graduates—as we look to the future—from less than baccalaureate preparation, we must move ahead to provide the kind of care that needs to be provided, both in the acute setting and in the home which is more and more where we are finding people being cared for.

We do have—which the IOM study does document, limited numbers who are entering the Masters and Ph.D. level, though we are proud of the number of nurses who are moving ahead into graduate programs. That number still is limited. And, again, in some cases, it's limited by the fact that nurses have limited funds. And it is our hope that Congress will continue to be supportive of nurses in those kind of endeavors.

Any of us who are in nursing do not want to be in medicine, obviously. But as we look at comparative analyses of what we put into education, we are talking about a program costing at least $10,000 or more. In terms of rewards as to when you are after a year, the payback for what you have invested is certainly not that as you would compare with other professions like medicine.

I think that the inequity, again, as far as the rewards for the additional education, needs to be considered, In order for nurses to move forward and to have the opportunities for graduate preparation, we do need to offer greater rewards at the front end of it, both at the lower level, at the minimum level and at the higher levels of education.

Mr. FORD. Your organization, obviously, includes a great many people who are employed by the Federal Government as nurses.

Ms. COLE. Yes.

Mr. FORD. So, presumably, the study, this legislation will have an opportunity to see how requirements for various categories of nurses match up as they did in Illinois.

Ms. COLE. It should be an interesting study.

Mr. FORD. I don't believe that anyone has even thought of doing that.

Ms. OAKAR. Thank you for your help in seeing that our bill was passed.

Ms. COLE. Thank you.

Ms. OAKAR. As the chairman may know, only 20 States have done studies or are in the process of doing studies on sex-based wage discrimination. I'm very proud that my State of Ohio is doing a study, as well. And our Governor has a real commitment to the issue.

Our next witness is Mr. John Sweeney, who is the president of the Service Employees International Union, AFL-CIO. We know that you represent with distinction so many employees throughout our country, John. Thank you very much for being here.

I know you have another very fine member of your organization with you.

Mr. SWEENEY. Ophelia McFadden.

STATEMENT OF JOHN SWEENEY, PRESIDENT, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, ACCOMPANIED BY OPHELIA McFADDEN, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, LOCAL 434

Mr. SWEENEY. Thank you very much, Chairwoman Oakar.

I'm just delighted to be here today.

I am, for the record, John Sweeney, president of the Service Employees International Union, and with me is Ophelia McFadden from Los Angeles, who is president of our local 434, and also an international vice president of the Service Employees.

With your permission, I would like to summarize my statement and submit it for the record.

On behalf of the 850,000 members of SEIU, I want to thank you and Congressman Ford for the opportunity to testify before you today. And I also want to commend the two of you for the outstanding work you've doing on behalf of working people all across the country.

I must say at the outset of my remarks, as a representative of working men and women, I feel frustrated and angry at the fact that we're still debating pay equity. We're still discussing pay equity; we're still contemplating pay equity. I'd like to know when employers are going to start doing something about pay equity.

It's been 20 years since title VII of the Civil Rights Act outlawed discrimination on the basis of sex. From what I've seen around the country, we haven't come very far since then toward eliminating broad-based wage discrimination against women.

Despite study upon study in State after State, proving that wage discrimination exists, only a handful of jurisdictions have made any progress in eliminating pay inequities. It is only in those jurisdictions where unions have battled long and hard that movement toward elimination of pay inequities has even begun.

This situation persists despite Federal laws which outlaw discrimination on the basis of sex.

Recent reviews of the EEOC, the Department of Labor, and the Department of Justice have found that these agencies are failing to enforce title VII. In other words, the agencies which were established to protect our rights are, in fact, turning their backs on the needs of half of our work force and, thereby, endorsing sex-based wage discrimination.

The current administration has made a mockery of our equal rights laws. Ronald Reagan has endorsed the continuation of wage discrimination against women. Pay equity has been characterized as many things: as a threat to the free market system; as a disruption of the American economy; as an expense that cannot be borne by our society; as a movement to pay men less in order to pay women more. But we know that employers use these same arguments to defile the movements which ended child labor, established the minimum wage, instituted the 40-hour work week, and provided equal opportunity for black workers.

We also know that the union movement has successfully bargained equitable salaries and equity adjustments for men and women workers without calamity.

The achievement of pay equity is just one more logical step toward the elimination of wage discrimination in our society. We all know the facts, and at this point I would like to suggest some actions to move us forward in our battle for pay equity.

First, ending sex-based wage discrimination in our country requires a commitment to action by the Government, by the labor movement, and by the private and public sector employers. Frankly, as I indicated earlier, the Reagan administration's action on this issue has barely even amounted to lipservice. Those of us who care about workers have been appalled by the activities of the President, the Justice Department, the EEOC, as well as the U.S. Commission on Civil Rights. They have manufactured bureaucratic excuses by not promptly and properly investigating wage discrimination complaints. They have abrogated their responsibilities to protect workers' rights.

The legislation that you have introduced, requiring action-oriented reports from Federal agencies responsible for enforcing antidiscrimination laws, would be a big step in making our Government more accountable.

Secondly, labor must continue to battle against discrimination. I'm proud of the efforts that the labor movement in this country has made toward ending sex-based wage discrimination and promoting pay equity. We've made inroads in some areas despite governmental and employer-generated obstacles. In addition to bargaining for pay equity, unions must be politically active at the State and local level, lobbying governments to investigate wage discrimination in their own work force.

We must continue our efforts on all of these fronts to help workers achieve pay equity because it is pure and simple economic justice; the economic justice that our labor movement has always stood for and fought to achieve; the economic justice that we believe will be a priority in a new administration next year.

I would like at this time to introduce our international vice president from Los Angeles, Ophelia McFadden, who will highlight some of our union activities in her testimony.

STATEMENT OF OPHELIA McFADDEN, VICE PRESIDENT, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

Ms. MCFADDEN. Thank you so very much. I appreciate the opportunity to appear before you today.

I need not introduce myself, as I think that has been quite appropriately done.

I am the general manager of Local 434, Service Employees International Union, and we represent Los Angeles County health care facilities; together with SEIU Local 660, we represent food service workers, laundry workers, maintenance workers, clerical workers, social workers, and many other professional groups in Los Angeles County.

Ours are the workers who day in and day out work in the jobs most subject to sex-based and race-based discrimination. California is a particularly appropriate place to hold these hearings on pay equity.

SEIU locals have been actively involved in this issue for years. In fact, it was 10 years ago that we bargained our first equity adjustment for clerical workers in Santa Clara County. We have been fighting for 10 years, and I know we still have a long way to go. I know firsthand, because our brothers and sisters in Los Angeles County are locked in a bitter battle for pay equity.

We've found patterns of sex segregation. We have also found evidence of race and sex discrimination in the job classifications that we represent. We raise these issues with our employer and I know we are going to have a big fight on our hands.

Chairwoman Oakar, I believe our experience in Los Angeles County is a telling one, I really do; one I'm sure is repeated over and over again in both public and private workplaces all over this country. SEIU will begin negotiations with the county in 1985 and the pay equity issue will be on the top of our list. We know it won't be easy. We have met with resistance from the employer already.

SEIU is the largest AFL-CIO union in California, and that strength has helped workers, particularly women and minorities, all over this State. Just this month, California State workers represented by SEIU Local 1000, the California State Employees Association completed contract negotiations that included a first step toward pay equity. The union bargained an 8-percent general increase for all workers. However, some 30,000 employees in female-dominated job categories—clerical, nurses, and librarians—will be entitled to additional equity increases.

To effectively continue our work on pay equity, we need full enforcement of the law, and that is at the Federal level. H.R. 5092 embodies a critical step toward ensuring that existing laws are in force under all administrations. It is critical that all employers, public and private, know that the Federal Government will not tolerate violations of title VII of the Civil Rights Act that we in labor fought so hard to get passed. They will not tolerate those violations and that those violators should certainly be expected to be prosecuted.

All of us in SEIU are going to continue to battle wage discrimination.

Chairwoman Oakar, I know your efforts will help to be successful in our struggle. Thank you so very much for this opportunity to share the views of the Service Employees International Union and, certainly, our commitment to pay equity.

Thank you.

[Statements of Mr. Sweeney and Ms. McFadden follow:]

STATEMENT OF JOHN J. SWEENEY, INTERNATIONAL PRESIDENT, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

I am John J. Sweeney, President of the Service Employees International Union, AFL-CIO, and with me today is Opheiia McFadden, President of SEIU Local 434, Los Angeles, and an International Vice President of our union.

On behalf of the 850,000 members of SEIU, I want to thank Congresswoman Oakar for inviting us here today to discuss pay equity. I must say at the outset of my remarks that, as a representative of working men and women all over the United States, I feel frustrated and angry at the fact that we are still debating pay equity, we are still discussing pay equity, we are still contemplating pay equity—I'd like to know when employers are going to start doing something about pay equity.

It has been twenty years since Title VII of the Civil Rights Act outlawed discrimination on the basis of sex. From what I've seen around the country, we haven't

really come very far since then toward eliminating broad-based wage discrimination against women.

In the public sector, we have seen more activity than in the private sector. SEIU local unions and our members have been increasingly involved in pay equity studies, job evaluation studies, and legislative efforts. In some cases, we have been successful in eliminating pay disparities. In other cases, our efforts have been waylaid by employers who do everything they can to perpetuate discriminatory practices.

Despite study upon study, in state after state, proving that wage discrimination exists, only a handful of jurisdictions have made any progress in eliminating pay inequities.

It is only in those jurisdictions where unions have battled long and hard at the bargaining table, where we pressured elected officials and where we have undertaken costly and time-consuming legal battles that movement toward elimination of pay inequities has even begun.

This situation persists despite Federal laws which outlaw discrimination on the basis of sex. It is clear that the mere existence of a Federal statute is not enough to insure the elimination of discrimination. We also must have appropriate mechanisms established that see to it that these laws are enforced.

Recent reviews of the EEOC, the Department of Labor and the Department of Justice have found that these agencies are failing to enforce Title VII. In other words, the agencies which were established to protect our rights are, in fact, turning their backs on the needs of half of our workforce—and thereby endorsing sex-based wage discrimination.

The current Administration has made a mockery of our equal rights laws. And in doing so, Ronald Reagan has endorsed the continuation of wage discrimination against women.

Pay equity has been characterized as many things. As a threat to the free market system. As a disruption of the American economy. As an expense that cannot be borne by our society. As a movement to pay men less in order to pay women more.

We in the labor movement find these characterizations ironic, disturbing, and totally without merit. Ironic because employers used these same arguments to defile the movements which ended child labor, established the minumum wage, instituted the 40-hour work week, and provided equal opportunity for black workers. Disturbing because some government officials, entrusted with enforcing laws which prohibited sex-based wage discrimination, both believe and parrot these age-old arguments. Without merit because the union movement has successfully bargained equitable salaries and equity adjustments for men and women workers without calamity. When employers are willing to accept their social and economic responsibilities, pay equity need not be controversial.

The achievement of pay equity is just one more logical step toward the elimination of wage discrimination in our society.

It is inconceivable to me—and I hope to all Americans—that we would allow a wage structure to exist which, for example, paid black people less than white people or paid Hispanics less than black people. Yet, that is precisely what we are doing when we allow the wages of women workers to continue to be depressed simply because they are women.

Pay equity is a critical necessity for our members in the service sector—a sector which has long profited from wage discrimination against women and one which employs more that four out of every five working women. Half of our union membership is comprised of women working in healthcare, clerical jobs, building maintenance and public employment. And the facts of wage discrimination and the causes for the wage gap are all too well known to workers in these occupations.

We all know the facts. And at this point, I would like to suggest some actions to move us forward in our battle for pay equity. First, ending sex-based wage discrimination in our country requires a commitment to action by the government, by the labor movement, and by private and public sector employers.

Frankly, as I indicated earlier, the Reagan Administration's "action" on this issue has barely even amounted to lip-service. Those of us who care about workers have been appalled by the activities of the President, the Justice Department, and the EEOC and the U.S. Commission on Civil Rights.

By arrogantly refusing to enforce the laws reflecting the will of the American people expressed in Congress, they have in effect vetoed some of our most important legislation—particularly Title VII of the Civil Rights Act. They have trampled the principle Congress made clear in our civil rights laws—that it is illegal for an employer to base wages on the sex of the jobholder when the job requires comparable skill, effort and responsibility. They have violated the decision of the United States Supreme Court, which in 1981 upheld that law in *Gunther* v. *County of Washington.*

They have manufactured bureaucratic excuses for not promptly and properly investigating wage discrimination complaints. They have abrogated their responsibilities to protect workers' rights. Thus, Congress must provide stricter oversight of these federal agencies to ensure that these laws are enforced in both the private and the federal sector.

Ms. Oakar, the legislation that you have introduced requiring action-oriented reports from federal agencies responsibile for enforcing antidiscrimination laws would be a big step in making our government more accountable. Secondly, labor must continue to battle against discrimination. I am proud of the efforts that the labor movement in this country has made toward ending sex-based wage discrimination and promoting pay equity. We have made inroads in some areas despite governmental and employer generated obstacles.

My own union has made progress on this issue on many fronts. SEIU has bargained for pay equity studies, participated in job evaluations and negotiated agreements on equity adjustment for workers who have been victims of sex-based wage discrimination. We have worked to replace discriminatory wage structures with systems which equitably pay workers based on the skill, educational requirements, and responsibility of the job.

In addition to bargaining for pay equity, unions must be politically active at the state and local level—lobbying governments to investigate wage discrimination in their own workforce. More and more states and local governments are undertaking pay equity job evaluation studies of public sector jobs thanks to lobbying on the part of organized labor. Some 12 states have equal pay laws which authorize equal pay for comparable worth and some have begun to pay out equity adjustments to certain classifications of state workers.

We must continue our efforts on all these fronts to help workers achieve pay equity because it is pure and simple economic justice—the economic justice that the labor movement has always stood for and fought to achieve * * * the economic justice that the Democratic party has always stood for and fought to achieve * * * the economic justice that we believe will be a priority in a new administration, next year.

I'd like to introduce SEIU International Vice President Ophelia McFadden who will highlight some of our union's activities in her testimony.

STATEMENT OF OPHELIA MCFADDEN, INTERNATIONAL VICE PRESIDENT, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

I am Ophelia McFadden, SEIU International Vice President and President of SEIU Local 434 which represents workers in Los Angeles County healthcare facilities. Together with SEIU Local 660, we represent cooks, food service workers, social workers, maintenance workers, clerical workers and other professionals in L.A. County.

Ours are the workers who, day in and day out, work in the jobs most subject to sex-based and race-based discrimination.

California is a particularly appropriate place to hold these hearings on pay equity. SEIU locals have been actively involved in this first issue for years. In fact, it was ten years ago that we bargained our first equity adjustments for clerical workers in Santa Clara County. We've been fighting for ten years—and I know we still have a long way to go. I know first hand, because our brothers and sisters in L.A. County are locked in a battle for pay equity.

In July of last year, Local 660 did a preliminary study of pay equity in L.A. County. It found, for example, that more than half of the women working for the county of Los Angeles are crowded into one job category, office clerical. Only one quarter of the men are in the most populous male category, protective services.

We found patterns of sex segregation. Nine out of 12 departments are male-dominated and three are female-dominated.

Not surprisingly, the median salary ranges of women workers are lower than the median salaries earned by men workers. While 52 percent of all men who work for the county earn more than $25,000 only 15 percent of the women earn that much.

In male-dominated job categories the median salary range is higher than in female-dominated job categories. But the most telling salary pattern emerges when male and female median salary ranges are compared in the same job category. For instance, in the professional job category where women hold 58 percent of the jobs, men earn more than $25,000; while women earn less than $25,000.

We raised these issues with our employer. And I know we are going to have a fight on our hands.

Chairwoman Oakar, I believe our experience with L.A. County is a telling one—one I am sure is repeated over and over again in both public and private workplaces all over this country. It points out that jobs are indeed segregated by sex. That women are underpaid for being women. That minorities are underpaid for being minorities. And that managements really don't have grand, sophisticated plans which set pay scales. Employers cover up their arbitrary and discriminatory practices by pleading "market wages."

SEIU will be negotiating with the county in 1985 and the pay equity issue will be on the top of our list. We know it won't be easy. We've met resistance from the employer already.

SEIU is the largest AFL-CIO union in California and that strength has helped workers—particularly women and minorities—all over the state.

Two very recent examples in this state show that the road to pay equity is a long one, but persistance pays off. In Contra Costa County, where SETU Local 535 represents social workers and eligibility workers, the union recently bargained a 3 percent comparable worth increase on top of a 5 percent salary increase. These adjustments are a first step in the union's attempt to correct long-term inequities.

Just this month, California state workers, represented by SEIU Local 1000, the California State Employees Association, completed contract negotiations that included a "first step" toward pay equity. The union bargained an 8 percent general increase for all workers. However, some 30,000 employees in female-dominated job categories—clericals, nurses and librarians—will be entitled to additional equity increases.

To effectively continue our work on pay equity, we need full enforcement of the law at the Federal level. HR. 5092 embodies a critical step toward ensuring that existing laws are enforced under all administrations. It is critical that all employers, public and private, know that the federal government will not tolerate violations of Title VII of the Civil Rights Act and that violators should expect to be prosecuted. The recalcitrance of the current EEOC is inexcusable both in terms of national policy and in failing to carry out its legal enforcement obligations.

We have taken the first steps toward pay equity. All of us in SEIU are going to continue to battle wage discrimination, Chairwoman Oakar. And I know your efforts will help us to be successful in our struggle.

Thank you, Chairwoman Oakar, for this opportunity to share the views of the Service Employees International Union.

Ms. OAKAR. Thank you very much for your compelling testimony, and for your great union's leadership. And it's good to see women who are also leaders of the union movement, as well.

Mr. Chairman, do you have questions?

Mr. FORD. Well, first, I want to thank both of you. You've helped me and other members of the Labor Committee for a long time.

You've heard the other witnesses and Mr. McEntee, particularly, refer to the dismal record of this administration in enforcing the laws already on the books. And lest anybody feel that they've taken no initiative with respect to pay, you must bear in mind that it's an issue I think will be—I hope will be—better understood between now and November, called subminimum wage. I sit on the committee that writes the fair labor standard amendments from time to time. We call it the minimum wage law publicly, but it's the Fair Labor Standards Act.

That idea was kicked around on the fringes for years. This is the first time that we've had people in the White House say it would be a great idea and it will magically create a whole lot of new jobs for young people. At what price to the working people at the bottom of the ladder that they be placed, doesn't seem to be of importance.

But do you represent in your local, particularly with the occupations you were describing, people who are close to the minimum wage level?

Ms. MCFADDEN. Very definitely, yes.

Mr. FORD. So they'd be competing in the job market with minimum wage payers. What would be the reaction of your people to a subminimum wage made available to those competing employers?

Ms. MCFADDEN. The reaction now, with just the thought of it, is—people being overwhelmed by the knowledge, just the thought that this type of thing could happen to people who are now, basically, barely making minimum wage and a little bit over. There's nothing comforting about the fact that we are talking about a subminimum wage; that people are living in poverty on minimum wage. There's no way that these people can keep bread and butter on the table for families at a subminimum wage.

Mr. SWEENEY. If I may, Congressman, you would basically have a situation where the children of minimum wage workers would be competing for the jobs of heads of households and their parents. As representatives of service workers all across the country which is, as you know, a vast growing industry, this would have a dramatic affect on a number of areas where our members have achieved a better way of life as a result of organizing, and creating a new structure of subminimum wage would just be disastrous on so many millions of families all across the country. It would affect more so the unorganized workers, people who have nobody to stand up for them and nobody to battle for them. And so much of the legislation that both of you have been involved with that labor has supported so strongly has affected and improved the life of unorganized workers as dramatically as it has organized workers. We think——

Mr. FORD. Is there any question that the vast majority of people who are directly affected by the minimum wage are not organized workers?

Mr. SWEENEY. Yes.

Mr. FORD. After 20 years, I'm no longer surprised but am getting used to the idea that the constant drumbeat comes in that organized labor always supports the minimum wage because that's how you get your pay. Indeed, it could be argued that, for the most part, the overwhelming majority of our population doesn't need it directly, but would be very adversely affected if it wasn't a starting point for the lower level jobs, the lower paying jobs.

Mr. SWEENEY. Yes.

Mr. FORD. That replacement factor unfortunately hasn't appealed. We see that the pitch is that the labor leaders don't want a subminimum wage. It doesn't affect their members. But what about all the unemployed teenagers? And somehow they come to the conclusion that displacing a woman supporting a child with a minimum wage job, or trying to support a child with a minimum wage job, being replaced by a 17-year-old hamburger fryer at McDonald's, is going to improve our economic condition in some way. The 17-year-old is not going to become a welfare case, but the displaced woman in her 20's with a child is. It doesn't make any economic sense, but it's amazingly appealing when they see it on the tube. And I hope that groups like yours, that have always been in the forefront of fighting more than just those issues that are clearly identified with their own problems at the moment, can help us. It must be awful tough for you to argue for wages in that kind of a setting.

Ms. McFADDEN. Well, we have managed simply because of the fact that the climate is ready, from the membership, from the community, that something certain must be done in the way of raising wages.

Now, it isn't easy, but the image that we have certainly created and that is certainly going to bat for the community, not only our membership but families in the community who are not being paid an adequate wage; and that has certainly helped us in bargaining because that not only affects that individual. That can also affect a community, where these people are robbed of a decent salary.

Mr. FORD. As a black person, I'm sure you notice that the President's labor advocate in the Senate, now the chairman of the committee, the Senator from Utah, justifies, in part, his position in favor of subminimum wage because it will make more jobs available for black youths. The implication is that people would pay a subminimum wage to a black person for an entry level job, but probably wouldn't pay a full minimum wage and, therefore, it will become a really low paying job that will open up that opportunity for a black person. It's kind of an interesting paternalistic attitude about how to help unemployed black youth.

Ms. McFADDEN. Well, it certainly wouldn't help because what we can envision is that the 16- or 17-year-old man or young lady will then come in and give their mother and father a couple of dollars a week allowance, and the kid will be running the household. That is what we are talking about. And I can't envision how a 17-year-old kid can help the unemployment in the black community.

Subminimum wage is not going to get at least, approximately, 62 percent of black youth off the street, and I certainly cannot see that that will raise the standards in the community. I certainly can't help but see that that will certainly lower the standards in the community, and you will see more violence in the community. You will see more vice and what have you, because a hungry person is a very dangerous person, and a hungry stomach is boundless. That individual is certainly going to try to fulfill the basic necessities; that's food, clothing, and shelter. And hunger is certainly the first on the priority list.

Subminimum wage is not going to do it. I think we are going to kindle a fire that will be so difficult to put out that it will certainly leak over in all communities, and it's not going to be confined to just the ghetto areas and the black communities. That's going to touch on all of our lives, and I'd be saddened to see that day happen.

Mr. FORD. Well, you do know that your fellow Californian, who would be attorney general, but for some help in the Senate, is now, probably will be if the election goes wrong, is perfectly satisfied that there aren't any hungry people in this country. He's becoming an expert on this.

Mr. SWEENEY. Scrooge.

Mr. FORD. There's something in the air out there.

Ms. McFADDEN. I think we need you to hold more hearings and that would help.

Ms. OAKAR. That would clear the air.

Thank you very much. I want to especially thank your union representatives and members for its support and hard work on

these efforts; you represent tremendous people and they're among the most discriminated against traditionally. I've always felt that one reason why there's so much pay inequity for women is that most of them have not been unionized in many ways unions provide mobilization that female workers need. And I really feel strongly about the work that you do, John; it's a pleasure to have you.

Mr. SWEENEY. And we thank the two of you for the great work that you're doing.

Ms. OAKAR. This concludes our hearing. We're very happy to have been here.

[Whereupon, at 11:30 a.m., the subcommittee adjourned.]

[The following statements were received for the record:]

STATEMENT OF HON. RICHARD CELESTE, GOVERNOR OF OHIO

Thank you for inviting me to share my views on comparable worth. On behalf of all Ohioans, I want to comment you for your outstanding leadership in the U.S. Congress on this issue. The recent overwhelming vote in the House in favor of your legislation to study the issue of comparable worth in the Federal civil service system shows that this is an idea whose time has come. It is also a tribute to your hard work and perseverance.

Let me share with you the progress we have made in Ohio on the pay equity issue since I took office in January 1983. In my campaign for Governor, I promise to conduct a similar study of Ohio's civil service system to determine if jobs traditionally held by women were paid equally to jobs of equal value traditionally held by men. Last fall, we initiated the study. Preliminary research has been conducted and initial results show that Ohio is unique among states that have conducted similar studies. We found that traditionally male and female-dominated jobs in State agencies that are judged to be of equal value are paid equally by Ohio's current job classification system. We also found that women in Ohio state agencies earn 87 percent of what men earn. This is much better than the 71 percent national average for workers.

At the same time, there is substantial occupational segregation by sex and no way to account for the 87 percent not being 100 percent. Because of our strong commitment to economic equally for women, we are taking this study one step further.

We are now doing additional research to determine if the method by which jobs were originally assigned value under Ohio's current job classification system is free of sex bias. In other words, we must examine how it was decided that a particular male-dominated or female-dominated job was worth a certain number of points. This puts Ohio on the cutting edge of research on this issue. Our efforts will continue until we assure that State employees are paid according to the true value of their work, and not on the basis of their sex.

Like you, Representative Oakar, we at the State level in Ohio want to send a message to the Reagan administration—an Administration that has systematically begun to unravel the carefully woven web of anti-discrimination legislation and economic support that the average working woman depends on. It is my intention that Ohio will become a model for other States as well as the private sector.

In opposing comparable worth, the Reagan administration has demonstrated once again that it does not represent the interests of working women of America and their families. The National Advisory Committee on Economic Opportunity said that if women were paid wages equal to those of similarly qualified men, half of all families living in poverty today would not be poor. As one component of my priority to get Ohio working again, I firmly believe that comparable worth is an investment that we cannot afford to neglect any longer.

Paying women what they are worth is not just an idea whose time has come, it is a matter of simple justice. We look forward to working with you in the months and years ahead to achieve that justice in Ohio and throughout America. Thank you, Representative Oakar.

National Organization for Women, Inc.
425 13th Street, N.W. Suite 723 Washington, D.C. 20004 • (202) 347-2279

TESTIMONY OF THE NATIONAL ORGANIZATION FOR WOMEN

presented by

JUDY GOLDSMITH, PRESIDENT

on

H.R. 5092, THE PAY EQUITY ACT OF 1984

before the

Subcommittee on Compensation and Employee Benefits

of the

Committee on Post Office and Civil Service

U.S. House of Representatives

July 17, 1984

San Francisco, CA

I am pleased to have the opportunity to address this Committee today about the critical problem of sex-based wage discrimination, and the particular solutions offered by H.R. 5092 which will restore active enforcement of federal laws prohibiting discrimination in compensation based on sex, race, religion, color or national origin. In light of the current Administration's total abdication of its responsibility to uphold federal anti-discrimination laws, the Pay Equity Act of 1984 takes important steps to guarantee that equal employment opportunities are available to all Americans.

The National Organization for Women, the nation's oldest and largest feminist organization with 250,000 members, has long been concerned about and taken action to end the sex discrimination which has such a devastating impact on women and their families. In particular, NOW is concerned about the economic impact of sex discrimination on women and the burden of increased costs it imposes on their lives.

NOW supports Congresswoman Oakar's bill, and views this legislation as part of the Congressional oversight process necessary to fully eradicate wage discrimination based on sex, race and ethnicity throughout the nation's labor force. During the past two decades, women's labor force participation rate has grown dramatically, from 39% in 1965 to over 55% today; this rate is expected to reach 65% by 1995. Last year, over 40 million women were employed, and they constituted nearly 48% of the nation's paid work force. Vigorous enforcement of anti-discrimination laws is necessary to provide employed women and the families which they support an opportunity to survive economically, and pursue a future of financial security.

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The Pay Equity Act of 1984 will aid full implementation of current equal opportunity laws. The Equal Pay Act of 1963 forbids unequal pay for equal work performed by women and men. Title VII of the Civil Rights Act of 1964 prohibits sex discrimination in a wide range of employment practices, including hiring, pay, promotions and benefits. Executive Order 11246, as amended by E.O. 11375, bans race and sex discrimination in employment by federal contractors, and requires the use of affirmative action plans which benefit female and minority employment opportunities. Title V of the United States Code states that equal pay shall be provided for work of equal value in federal employment, a principle which was extended to private industry employees by the landmark 1981 Supreme Court decision in County of Washington v. Gunther.

As the federal agencies charged, by law, with enforcing these nondiscrimination statutes, the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance Programs, the Departments of Labor and Justice, and the Office of Personnel Management must uphold the law and eliminate discriminatory employment practices by both private and public employers.

Although these critically important laws remain on the books, the Reagan Administration has systematically sought to reverse the employment gains made by women and minorities during the past two decades. Reagan's appointees, whose efforts benefit corporate employers more often than workers who have been discriminated against, have undertaken agency reorganizations, policy and regulatory changes, as well as budget cutbacks; they have also overseen a striking lack of law enforcement activity.

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Between 1981-1983, EEOC Chairman Clarence Thomas has presided over a 74% drop in the number of enforcement cases filed by the EEOC against employers, a rate which, if first quarter FY 1984 figures remain stable throughout 1984, will persist this year. The OFCCP has experienced a similarly dramatic drop in enforcement activity against employer discrimination. In 1983, there was a 67% reduction in the number of administrative complaints issued as compared to those issued in 1980, as well as a severe drop in the number and total amount of back pay awards to women and minorities who had been discriminated against. In FY 1980, $9.3 million was awarded to 4,300 people, but by FY 1983, less than $650,000 was granted to 462 discrimination victims.

Sex-based wage discrimination is against the law for both public and private employers, whether an employer provides unequal pay for equal work or unequal pay for different jobs of comparable value. The 1981 Supreme Court decision in County of Washington v. Gunther clearly established that such so-called "comparable worth," or pay equity, cases are covered by Title VII of the Civil Rights Act of 1964.

In Gunther, the Court ruled that a wage differential resulting in whole or in part from sex discrimination is illegal if the skill, effort and responsibility of the different "male" and "female" jobs is equal or if the difference does not justify the earnings gap. The Court also refused to review a favorable lower Court pay equity decision in IUE v. Westinghouse, a companion case involving dissimilar male and female jobs which was pending when Gunther was decided. With these two actions, the Supreme Court absolutely established Title VII jurisdiction over all pay equity wage discrimination cases. Yet,

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the Reagan Administration has persistently failed to enforce the law.

Two months after the Gunther decision, while the EEOC was still under the management of Carter appointees, guidelines regarding the investigation and litigation of pay equity cases were issued by the EEOC, the agency that enforces Title VII. Yet Chairman Thomas not only refuses to authorize his staff to enforce these guidelines, he even refuses to acknowledge their existence. In the process, Thomas has created a backlog of more than 250 cases of wage discrimination based on pay equity violations.

Last December, in the first significant test case since Gunther, U.S. District Court Judge Tanner ruled in AFSCME v. State of Washington that Washington State violated Title VII by paying workers in predominantly female jobs less than workers in predominantly male jobs which, although different, require the same or less skill, effort and responsibility. Judge Tanner based his decision on what he termed "overwhelming" evidence of "direct, overt and institutionalized discrimination" in the hiring, pay and promotions of women employed by the state of Washington.

As with the Bob Jones University and Grove City College cases, the Reagan Administration in the Washington State case has once again failed to reinforce a national commitment to fight discrimination against all our citizens. Instead, Assistant Attorney General for Civil Rights William Bradford Reynolds went so far as to say, without even having reviewed the trial transcript, that he has absolutely no doubt that Tanner's decision is wrong. Both the EEOC and the Justice Department are legally bound to enforce the law. Instead, the Reagan Justice Department is threatening to intervene in court on

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behalf of the discriminator in this case. That would be an unprecedented step backward in public policy, and a further erosion of the government's responsibility to uphold the law against discrimination.

Women and their families cannot afford to have the federal government abandon them and their civil rights in these difficult economic times. Women's economic status has already worsened over the past three decades, a trend which has accelerated under Ronald Reagan. Two and one-half million women and three million children fell into poverty between 1980-1983. The wage gap, or difference between what full-time, year-round female and male workers are paid, stands at about 60¢ for all women. Occupational segregation plays a major role in this wage disparity.

Sixty percent of all female workers are now paid less than $15,000 per year, while only 28% of men fall into this category. Fewer than 4% of all women make more than $30,000 per year, while more than 25% of all men are paid that salary. Further, racial discrimination compounds the economic problems which minority women face. In 1982, the wage gap for black and hispanic women was 55¢ and 51¢, respectively.

The effects of this wage discrimination on families are devastating. Fifty-five percent of all children under the age of 18 have mothers who work outside the home and many women are the sole support of their families. The percentage of female-headed households has shown a dramatic 70% increase during the past decade. Today, 9.5 million families, or 16% of the total, are headed by women; these families suffer from a poverty rate more than five times that of husband/wife families.

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If current economic trends continue, the National Advisory Council on Economic Opportunity estimates that by the year 2000, this nation's poverty population will consist entirely of women and children. The wage gap is a major cause of the continuing "feminization of poverty," and the single most important reason for the wage gap is the sex discrimination that has resulted from severe and persistent occupational segregation within both the private and public sectors. Fifty-one percent of women work in 20 of the 427 Department of Labor job classifications, and 80% of women work in occupations which are predominantly female.

A 1981 study published by the National Research Council of the National Academy of Sciences shows that the more an occupation is dominated by women, the less it pays. Employers pay the so-called "women's" jobs less than "men's" jobs regardless of the skills, education or training required to perform them. These occupations are segregated in order to pay women lower wages and thus increase employer profits.

Occupational segregation of women into the lowest-paying jobs has actually worsened during the last decade. Not only do women predominate in lower paying fields, but women's gains in higher-paying job categories have not been nearly enough to offset that disparity. By 1982, women were 28% of executives and managers versus 17% in 1970, and 7% of all skilled craft workers in 1982 versus 5% in 1970. Also, within every job category, an earnings gap exists. Sex discrimination continues to cost women wherever they are in the labor market: female executives and managers are paid 60% of the wages paid to their male counterparts, female salespeople 50% of men, female clericals 62% of men, and female

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craft workers 65% of men.

This situation will change only when there is vigorous enforcement of existing anti-discrimination laws and when sex is no longer a determinant of wages. Jobs must be offered and paid on a basis other than the sex of the employee. Congresswoman Oakar's bill contains a number of important provisions to monitor and improve current federal equal opportunity law enforcement, and to direct the Justice Department to follow legal precedents set by the Gunther and AFSCME v. Washington State court decisions. These measures include periodic, detailed reports to Congress and the President on law enforcement actions taken by the EEOC, Secretary of Labor, Attorney General and others which affect both private and public employers.

Employed women's living standards have been severely lowered by sex discrimination. Their talents, skills and experience remain underutilized at a great cost to our economy and their families. It is high time that the federal government get back into the business of vigorously pursuing equal employment opportunity and fair wages for all citizens.

The Pay Equity Act of 1984 presents clear methods to ensure that our government enforces the law, and we look forward to its consideration by Congress and implementation by an Administration dedicated to justice for all Americans. By passing this bill, Congress will send a strong message to federal regulatory agencies, private and public employers, and to President Reagan that sex discrimination is unjust, illegal and intolerable to the women of this nation. Thank you.

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THE PAY EQUITY ACT OF 1984

THURSDAY, OCTOBER 18, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION
AND EMPLOYEE BENEFITS,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, DC.

The subcommittee met pursuant to notice at 9:45 a.m., room 15, Minnesota State Capitol, Cedar and Park Avenue, St. Paul, MN, Hon. Mary Rose Oakar, presiding.

STATEMENT OF HON. MARY ROSE OAKAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

MS. OAKAR. The Subcommittee on Compensation and Employee Benefits will come to order. I am very pleased to be here in the Twin City area. My name is Mary Rose Oakar, and I represent another great State that's in our wonderful region, Greater Cleveland, OH.

I'm very pleased to have Congressman Gerry Sikorski here with me. Gerry is a fine member of the Post Office and Civil Service Committee. Gerry gave me the needed support on a pay equity bill related to Federal employees. I know he has great concern for fairness and equity issues, that affect all workers in the country. He's just an exquisite member of our committee.

And I'm delighted that you invited me to have this hearing, Gerry. I'm happy to be here. This is the second in a series of hearings throughout the country that we've had on pay equity.

It's appropriate that we come to Minnesota, because this is the State, that has served as a real role model, I think, for other States.

My own State of Ohio, for example, just instituted a study after the great work that Minnesota did. You completed not only a study, but the implementation of a program. I really hope that other States follow the lead that all of you have provided, and I know Gerry provided it when he was in this gorgeous, exquisite building as a State senator.

Mr. SIKORSKI. We just gave her a tour.

Ms. OAKAR. Yes; I'll tell you. It's beautiful. Truly, it's as beautiful as the Capitol Building, in Washington. It's just lovely to be here.

In my judgment the Federal Government ought to follow the lead, in terms of equity toward women and men, in the areas of pay equity. In the Federal Government we have a real problem.

It's a serious problem. When you look at the manner in which women are classified in the Civil Service you find that women are

in the bottom six rungs of a classification, and men are in the upper areas of classification.

This is not a confrontational issue between men and women, because all of us want men as well as women to be paid fairly. The problem has been, however, that many female-dominated jobs are underpaid, and undervalued.

And the problem is not exclusive to the private sector. The Federal Government appears to have sex segregated jobs as well. With Gerry's help, we were able to pass out 5680, which was one of my first bills, to mandate the Office of Personnel Management to hire a private consultant to analyze the Federal pay and classification systems to clarify whether or not sex-based wage discrimination existed.

The bill passed overwhelmingly in the House, 413–6. When it got to the Senate, they refused to even hear the bill, and truly, upon orders from the White House, refused to take it up.

Although the bill died in the Senate, we're going to bring it up again next year. And with Congressman Sikorski's fine assistance and leadership, we're going to pass that bill again, and get the kind of commitment to fairness issues that women throughout the country really feel that they deserve.

I understand that this area has the fifth largest concentration of working women in the country. I know that the women of the St. Paul-Minneapolis region know that most women work out of need, not boredom or luxury.

Adequate pay is so important during working years as well as during retirement. Most pensions are based on earnings. If a person is paid inadequately during his or her younger years, he or she will not benefit during retirement. This catch-22 situation, which is especially bad for older women is the very good reason pay equity income is necessary. Minnesota, after successfully implementing pay equity, is the perfect location for a field hearing.

And somehow the State of Minnesota survived it all, and the morale is much higher.

The second bill which is going to be the subject of today's hearing is H.R. 5092. This would mandate that the EEOC set up an education program to assist private companies in reevaluating and—restructuring their pay systems to comply with pay equity principles.

The bill would also mandate EEOC and the Departments of Justice and Labor to report to the President and to Congress on their activities in enforcing pay equity laws, the Equal Pay Act of 1963 and title VII of the Civil Rights Act of 1964.

We feel that the acts are already on the books. We don't need to correct the Civil Rights Act. We want the Government to implement the act, and we want them to be fair. We think that the EEOC has been very remiss in some pay discrimination cases.

We also feel that there are some private companies that need help, that in good faith they want to pay their people fairly. They need some education, and this is why the bill would mandate that EEOC serve not only as an enforcement agency, but also as an agency that would educate and assist those businesses that wanted to comply with the law.

It is really imperative that the Federal Government serve as the prime example in fairness toward women and men in this country. Fair pay in the workplace should not be an exception, and this is why we're here today.

Thank you, Gerry for the competence that you bring to our committee, and for your leadership in the issue of—fairness.

STATEMENT OF HON. GERRY SIKORSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. SIKORSKI. Thank you.

Before I begin I'd like to say that Senators Donna Peterson and Bill Deisner are here, as well as Representative Wayne Simoneau, and Mayor Luanne Stoffel of Hastings.

I'd like to thank Chairwoman Oakar for all the work that she has done to bring about this hearing. Last year in December Henry Waxman came to Minnesota for an acid rain hearing. I presented him with a pair of earmuffs. [Laughter.]

Mr. SIKORSKI. I know, coming from Ohio, you don't need earmuffs.

Ms. OAKAR. No.

Mr. SIKORSKI. I would also like to say thank you for your leadership in moving the Federal Pay Equity Act through the House of Representatives and trying to defend it, and your leadership of all issues pertaining to women's equity and equal rights.

Were there more Members of Congress of your caliber and character, this would be a lot more equal society today. The reality is that the 98th Congress closed its legislative book on a story that is not a good one for women. In fact, the failure of the 98th Congress to ultimately pass a series of economic and social reforms that Congress had before it is a sad story.

But we don't have the luxury to be disheartened. This failure will have to serve as an impetus for work at all levels so the next Congress is more decent and more fair. The 98th Congress' story is not without highlights. We passed a few parts of the Economic Equity Act.

We passed the Retirement Equity Act, and the Deficit Reduction Act of 1984—had provisions to make nonprofit dependent care facilities eligible for tax-exempt status, and to assure that alimony would not be treated as income for IRA purposes.

We passed bills which would help women pursue education options and which would bring a greater equity to various retirement benefits. The frustration is, as in so many cases, that we came so close. In the House we came within six votes of passing the Equal Rights Amendment. In the House we passed a strong civil rights bill to address *Grove City* v. *Bell*, only to have it sacrificed in the Senate's rush to pass a continuing resolution and adjourn the Congress for the year.

The House also passed a Civil Service Spouse Retirement Equity Act to protect the right of former spouses of Federal employees to survivor and retirement benefits, that bill was defeated as well.

One of our greatest frustrations of all, however, was the failure of the Senate to act on the House-passed Federal pay equity bill, sponsored by Congresswoman Oakar, cosponsored by myself and

many colleagues, and passed out of our Post Office and Civil Service and off the floor.

It's an effort to get the Federal Government to lead where it should be leading, and that's in civil rights for all Americans. In the case of pay equity, the Federal Government has lagged far behind many States in rectifying the economic prejudice against women that exists throughout the work force and is cemented into the current Federal pay structure, which was established first in 1927.

Pay equity, simply the eradication of sex-based wage discrimination, has been called a major economic issue for women of this decade. The disturbing statistics have been known for a long time, 59 cents on a dollar's worth of hard work.

Eighty-five percent of the women in the Federal General Pay Schedule systems are in grades 1 through 9, and only 6 percent of all workers in the executive pay systems are women, and we can find evidence of it here in Minnesota; 1 percent of our school superintendents and 99 percent of our food service workers are women.

The problem is not just one of the refusal of certain professions to hire women. There has been progress there. And it's not one of unequal pay for identical jobs, although there still exists a problem there. The issue we're focusing on today is the undervaluation of occupations in which women are clustered.

Sex-based job discrimination like this has been specifically prohibited by a series of laws, including title VII of the Civil Rights Act of 1964, but it's obvious from the statistics that the intent of this law is not being implemented on the Federal, State, and local level, or in the private sector.

A few years ago I was an author of the Comparable Worth Law in Minnesota, and we can be proud of the progress Minnesota has made in this issue with the help of people like Aviva Breen and Carolyn Rodriguez and Nina Rothchild, who will testify later today on the progress.

Some 20 States are at various stages of studying the issue of pay equity and rectifying the injustices in State and local systems. Many look to Minnesota as an example of a successful program for instituting this kind of simple economic equity and justice.

But it is an embarrassment that the Federal Government lags so far behind in addressing this injustice. I look forward to further progress in Congress on pay equity next session, and the valuable information that we gain from the very good panels that we have today will help us in reaching this objective.

Once again I thank Congresswoman Oakar for taking time out at this busy time of the year to come to Minnesota and hold this hearing. Thank you.

Ms. OAKAR. Thank you, Gerry. Of course, as you know, I wanted to come sooner, and unfortunately we had to cancel our original hearing earlier this month.

Mr. SIKORSKI. Thanks to the Senate.

Ms. OAKAR. Yes.

Mr. SIKORSKI. The other body.

Ms. OAKAR. The other body just couldn't decide on what to do about keeping the Government running. But I'm happy that we were able to work it out so that I could be here this morning.

Our first witnesses are Nina Rothchild, whom I'm familiar with, because she's testified before me in Washington, who is commissioner of the department of employee relations for the State of Minnesota; Barbara Beerhalter, who is the commissioner of the department of economic security, State of Minnesota; and Wayne Simoneau, who is the State representative, District 51–B, Minnesota.

We are really honored that you could be here today, and add to our important testimonies.

So Nina, if you'd like to begin, we'd love to hear your testimony in whatever way is most comfortable. We can submit your entire statement for the record, or you can present it to us.

STATEMENT OF NINA ROTHCHILD, COMMISSIONER, DEPARTMENT OF EMPLOYEE RELATIONS, STATE OF MINNESOTA, ST. PAUL, MN

Ms. ROTHCHILD. Thank you, Madam Chair. I appreciate being invited to talk about the Minnesota experience.

A lot of the opposition to pay equity tends to be based on hypotheticals: If you do it, these things will happen, and that's why we're always pleased to tell what did happen in the State of Minnesota. I think our experience demonstrates that all the terrible things that might happen do not happen when in fact you institute a pay equity program in your State.

I will limit myself simply to describing what we did in fairly concrete terms, and I think other members of the panel will be getting into more of the particulars and the background on it.

To give you some sense of what we're talking about: Minnesota State government has about 34,000 full-time employees, working in about 1,800 job classses. We have a very comprehensive Public Employment Labor Relations Act which defines 16 bargaining units based on occupational lines.

We have 11 different unions which represent these employees, the largest of which is AFSCME, American Federation of State, County, and Municipal Employees. They represent six of the bargaining units, and I might just say that of the six they represent, two of them are heavily female-dominated (the Office and Clerical Workers and the Health Care Nonprofessionals), two of them are more heavily male-dominated unions, and then two are more balanced.

Somewhat independently of any concern for pay equity, the State of Minnesota had instituted a job evaluation system in 1979. This was a system that was put forth by Hay & Associates, and it's a method by which you look at job titles, position descriptions, class specifications, not the incumbent of a job, but the actual duties of a job, and you try to evaluate the level of that job through a system of analyzing the tasks performed and then giving a certain numerical weighting on the basis of know-how, problem-solving, accountability and working conditions.

There are a number of these systems around. They tend to be fairly similar and the results tend to be about the same. They've been in place for 30 or 40 years, and have been generally accepted both in the public and private sector as a very reasonable way to

try to align jobs in any particular work place, according to the levels of skill, effort, and responsibility.

So we were really very fortunate in this State of having in place a job evaluation system. In October 1981 the Council on the Economic Status of Women established a task force to look at the issue of pay equity.

The council over the years had looked at overall statistics on State employment, had found the same kind of depressing salary disparities overall that you see everywhere in society, and we had come to the point, really, where despite very strong affirmative action efforts, it seemed as though there were really no changes in those salary disparities.

So we essentially established a task force to try and solve a problem, and in order to do that we invited—I say "we." I should parenthetically say I used to be with the Council on the Economic Status of Women, so at this point of the presentation I guess I'm—I've got my previous hat on.

We thought we needed the people who would be affected, so we had representatives of the department of employee relations, where I am now, representatives from the unions, members of the house and senate, particularly some key committee members, and Wayne Simoneau, who was then the Chair of the Legislative Advisory Commission on Employee Relations.

We really just sat down, saying "We see these disparities persist over the years. What do we do about it?" We did have the constraint of having to operate within the framework of collective bargaining, because there's a very strong commitment in the State to the integrity of the bargaining process, and so you could not simply unilaterally go ahead and say "Oh, these people are underpaid. We'll pay them more."

We needed to do it within the context of collective bargaining. The information we looked at was really very simple. We listed job titles, what their Hay points were, and what the current salaries were. Once we had that on paper, in the form of a scattergram, it became self-evident we had a very serious problem in the State, because we found absolutely consistently, without exception, that any time a job class is dominated by females, it pays less than male classes that had been evaluated at the same level.

So the issue really became one where we had documentation showing a systematic, consistent underpayment for women's jobs, and what do we about it? What we did do was to propose some legislation which in the first year—this was in the 1982 session—would establish within State law a policy and a process which then in the following session, which is the budgeting year, in 1983, would serve as a basis of whatever implementation.

So we basically passed a law that established a policy of equitable compensation relationships, and then we put into the law a process for implementation, I think in some ways this makes us different from Washington State, because our original pay equity law not only had the policy statement, but there also was a requirement in the law of certain steps that needed to be taken through a legislative session that required facing up to this issue in the bright light of the public process. And I think that in many ways that part of the law is what served as a foundation of our successful im-

plementation. People simply couldn't dodge the issue once the information was put forward.

Very quickly, the law requires that the commissioner of employee relations submit a list of female-dominated classes which are paid less than male classes to the legislature with an estimate of the cost of full implementation. That's to the joint legislative commission on employee relations. They recommend to the appropriate funding committees, the house appropriations and the senate finance committees, how much should be appropriated in that current budgeting year. And then that feeds into the normal appropriations process that they'd go through every 2 years in the State legislature. The way we protected against interfering with collective bargaining in that once money is appropriated, it's allocated to the different bargaining units proportional to the total need, and then that money is placed on the table and the final distribution of salary is through the usual collective bargaining process.

We've now been through a full cycle on that. In the fall of 1982 Governor Perpich was elected, and he is a strong supporter of pay equity, and he recommended that in the budget there should be money for the first stage of negotiations.

There was general agreement at that time that if we implemented over a 4-year period, that would be a reasonable phasein. The total cost had been estimated as $26 million. That represents an amount equivalent to 4 percent of the payroll.

So essentially our implementation program—assuming that the coming legislative session appropriates a similar amount—will be over a 4-year period, using an amount that is equivalent to 1 percent of payroll each year for 4 years, to bring up the female-dominated occupations.

That in fact did happen. In fact, interestingly enough the legislature had to go the Governor one better and appropriated more than had been budgeted for the appropriated amount, equivalent to 1¼ percent of payroll for each of the 2 years.

That money was appropriated. It was allocated to bargaining units. We bargained in the spring of 1983, and came to a successful conclusion in the contracts. The results are that approximately 151 job classes got pay equity increases. These are female-dominated job classes, but of the people who've received increases about 10 percent of them were men.

About 8,000 of our employees received increases. The average amount over the biennium is about $1,600, and the people who benefited the most were the clerical workers and the health care nonprofessionals, because there are large numbers of women who work in those occupations, all of whom were underpaid.

As I say, it went very smoothly and very well, and we anticipate that in the coming legislative session we will be able to finish that part of the equalization for State employees.

Before I close I'd like to just mention that in the 1984 session, because of the State's very positive experience, there was a bill passed which extends pay equity to all local units of government. All 436 school districts, 855 cities and 87 counties, plus miscellaneous metro districts and special districts, are now covered by a Local Government Pay Equity Act which basically requires local governments to institute a job evaluation system, to develop statistics on

the number of male and female classes, to measure any salary disparities, to estimate the cost of equalizing, to report to our department next fall.

We will report to the State legislature on what the implications are for the local units to implement pay equity, and then the local units are required to have a plan in order to establish pay equity.

It's too early to know how well that will work, although I must say we've been delighted that in going around the State there seems to be a good understanding of the need for this. People often say it's long overdue. Local governments do not like mandates from the State of any sort. It could be motherhood and the flag and they wouldn't like it and certainly if it's something that costs money they don't like it. But I'm really heartened by the fact that in general, not everybody, the response has been very, very positive. So we're optimistic that the local governments will be an extension from the State, and that Minnesota can have more widespread equity and fairness for women.

Thank you.

[The statement of Commissioner Rothchild follows:]

STATEMENT OF NINA ROTHCHILD, COMMISSIONER, DEPARTMENT OF EMPLOYEE RELATIONS, SAINT PAUL, MN

Minnesota state government has about 34,000 full-time employees working in more than 1,800 job classifications. State employees are covered by the Public Employment Labor Relations Act, which defines 16 bargaining units based along occupational lines. Eleven unions represent these units, with six of the units represented by the American Federation of State, County and Municipal Employees (AFSCME). About 86 percent of the employees in state government are covered by collective bargaining agreements.

In 1979, Hay and Associates, a personnel consulting firm, and the Department of Employee Relations established a job evaluation system to measure the content of jobs in state service. The Hay system assigns points to jobs based on four factors: (1) know-how, (2) problem-solving, (3) accountability, and (4) working conditions. The "value" of a job is determined by adding up the point value for each of the factors. The cost of designing and implementing the Hay job evaluation system was about $85,000.

In October 1981, a task force was established by the legislative advisory Council on the Economic Status of Women to study pay practices for male and female employees in state service. On the task force were members of the House and Senate, representatives of the Department of Employee Relations, union representatives, and members of the public. Using the Hay job evaluation system, the study documented salary disparities between male-dominated and female-dominated job classes and recommended that the legislature appropriate money to eliminate the disparities. The estimated one-year cost for full implementation was $26 million, an amount which is equivalent to four percent of the state's payroll.

In 1982, the state legislature changed the personnel law covering state employees to: (1) establish a policy to provide "equitable compensation relationships between female-dominated, male-dominated, and balanced classes of employees in the executive branch," and (2) establish a procedure for making comparability adjustments.

By January 1 of odd-numbered years, the Commissioner of Employee Relations submits a list of female-dominated classes which are paid less than other classes with the same number of Hay points. Also submitted is an estimate of the cost of full salary equalization.

The Legislative Commission on Employee Relations, recommends an amount to be appropriated for comparability adjustments to the House Appropriations Committee and the Senate Finance Committee.

Funds are appropriated through the usual legislative process for comparability adjustments. These funds are within the salary supplement, but may be used only for salary equalization for the job classes on the list submitted by the Commissioner. Any funds not used for this purpose revert back to the State treasury.

Appropriated funds are assigned to the different bargaining units proportional to the total cost of implementing pay equity for the persons in the job classes repre-

sented by that unit. The actual distribution of salary increases is negotiated through the usual collective bargaining process.

In January 1983, the Department of Employee Relations submitted to the legislature list of female-dominated occupations which were underpaid in relation to the average salary for male-dominated classes at the same point level. The legislature then approved a biennial appropriation of $21.8 million. This amount was designated separately from funds appropriated for general wage adjustments for all state employees. If a similar amount is appropriated in 1985, pay equity will be implemented within four years.

All union contracts have now been signed. Some of the results of collective bargaining on pay equity are as follows:

Approximately 151 job classes got pay equity increases.

About 8,225 employees received pay equity adjustments.

All of the clericial workers and half of the health care employees will receive on average approximately $1,600 over the biennium as a result of pay equity.

In 1984, the legislature passed a bill extending pay equity to local government: cities, counties, school districts, and others. The bill requires each political subdivision to establish equitable compensation relationships between female-dominated, male-dominated, and balanced classes, using the same definitions as the state employees' law. Each local unit must establish a job evaluation system, conduct a pay equity study, establish a pay equity plan, and report to the Department of Employee Relations and the legislature by October 1985. The bill also includes some protections for local governments by providing a "grace period" of three years during which the results of the job evaluation study is defined as private data. Results of the job evaluation system also may not be used as evidence of discrimination under state law during this period.

Ms. OAKAR. Well, thank you very much. What I'd like to do is conclude the panel and then ask you questions. I also would like to welcome to the panel Representative Philip Riveness. Thank you very much for being here, Representative.

Barbara, would you like to—I hope you don't mind if I call you by your first names. I mean no disrespect, but somehow along the line I feel as if I've known you a long time. It's nice to have you here.

STATEMENT OF BARBARA BEERHALTER, COMMISSIONER, DEPARTMENT OF ECONOMIC SECURITY, STATE OF MINNESOTA

Ms. BEERHALTER. Thank you very much, Madam Chair, Senator. It's a pleasure to have the opportunity to appear before your subcommittee, and I thank you for having asked me to participate.

I will be taking a little bit different approach from Commissioner Rothchild. The Minnesota Department of Economic Security has particular interest in pay equity, as it relates to our own personnel, to the impact on poverty groups within the State, and in relation to the occupational research conducted by the department.

Approximately 2,500 persons work for the department of economic security. When the State pay equity law went into effect in July 1983, 695 persons were directly affected by changes in the pay scale. The changes were well received within our department.

Increases for clerical staff and other service workers were accepted as a matter of fairness. The elimination of sex-based wage discrimination for State employees was seen as an important step in the State commitment to justice and equality.

At this point I have not received any negative reports on the concept of the law or the way in which it was implemented. Although pay equity is an economic issue, it is also a family and poverty issue. We are increasingly aware of the complex relationship between jobs and poverty.

We are aware, for example, of the following: more than 85 percent of employable adults in poor families generally work 27 weeks or more a year, and about half of these work full time. The critical factor is the level of earnings, not simply jobs.

Another factor, a disproportionate number of breadwinners in female-headed households, almost one in four families, have incomes below the poverty level as documented by the 1980 census data.

That compares to poverty levels of less than 15 percent for male- and couple-headed households. A combination of lower earnings for women generally and fewer wage earners in families headed by women contribute to low incomes and high poverty rates for this group.

Overall, more than 24,000 female-headed families in our State are living in poverty, and 20,000 of those families have children. The kinds of jobs and earnings available to women become an increasingly important factor in the reduction of poverty.

The department of economic security is responsible for a number of assistance programs for low-income persons in Minnesota, from energy assistance to employment and training programs.

In the long run, we expect job and training programs to provide the means for low-income persons, including female heads of households, to rise above the poverty line. Two of those programs that help the economically disadvantaged are the Job Training Partnership Act and the Work Incentive Program [WIN].

Recent data from these programs indicates the current status of wage differentials between men and women as they are placed in jobs. Comparative data from the WIN Program shows that the time of entry into permanent unsubsidized jobs, there was an average of $1.25 difference between the hourly wages for men and women in both fiscal years 1983 and 1984.

In 1983 the starting wage of $5.90 an hour for men, $4.59 for women. In fiscal year 1984, $5.91 an hour for men, $4.73 an hour for women. Well, averages tell us one thing; the variety and types of jobs tell us another. I've attached a sample of the kinds of jobs obtained by men and women through the Job Training Partnership Act during the first 9 months of the program.

Placements for women did run from a high of $25 an hour for a carpenter contractor to just above the minimum wage for cooks and clerks. In a wider context, the clustering of women in a limited number of occupations, many of which are low paying, indicates a need for continued movement in the direction of pay equity.

In 1982, data shows that women dominated 25 occupations: 99.1 percent of the secretaries, 98.3 percent of the cleaning and household service workers, 97.8 percent of the registered nurses, 86 percent of the clerks, 84.5 percent of the elementary school teachers.

Most of these jobs are in growth fields, and should argue for better pay if we are simply looking at supply and demand. But more than supply and demand is involved in these fields. Historic earning patterns which were accepted as a matter of fact in the past play a key role in the current pay scale for these occupations.

Looking to the future, we prepare economic employment outlooks. We're in the midst of updating our outlook for 1990, but

based on the outlook from 1980 to 1985, clerical workers, the largest category of workers also growing at the fastest rate.

Service workers, expected to surpass the number of professional, technical and kindred workers, making it the second largest occupational group. The greatest number of job openings will be in the clerical field, closely followed by service occupations.

Even though we haven't that 1990 outlook yet, it's my understanding from staff that the trends will be similar, although at a slightly slower rate of growth. Since this is the case, the pay equity issue is certain to remain an important issue throughout the decade.

Although we do not have comparative data for all jobs, it is important to note that, in the aggregate, males earn approximately twice as much as females. Specifically, 1980 census data indicates that males had annual earnings for full-time work of $17,433 compared to $9,089 for females, and annual earnings for part-time work for males of $6,008 compared to $3,572 for females.

An example of pay differences for some occupations in the metropolitan area are: warehouse workers in 1984: male, $11.85 an hour; female, $7.52; and shipping packers in 1984: male, $7.77 an hour; female, $6.74. In fields such as computer programming in the manufacturing area, the monthly difference in 1984 was $299, for computer operators it was less—$17 a month.

Some other examples are included in attachment 2.

Whatever the differences now, the important factor is that there is a growing awareness of the fact that pay differences are unequal and unfair. I feel there is a growing acceptance of the idea that pay equity simply means that people should receive comparable wages for jobs requiring comparable skill, responsibility and effort.

We need to deal with the pay equity issue. It's a matter of fairness. It's a matter of responsibility on the part of Government policy and employers and the public. To the extent that it is not achieved, the Government subsidy for these employers and workers will not diminish. It may grow.

It will grow and continue through welfare payments, through child care and food stamps, through social services, through another generation of youth in poverty, through weatherization and fuel assistance programs, through training and retraining costs, and through the impact on the economy of little, if any, disposable income by this large number of families.

Thank you.

[The attachments to the statement of Commissioner Beerhalter follow:]

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Attachment #1

Typical Occupations JTPA Participants Were Placed In and Entry Hourly Wage by Selected Service Delivery Areas October 1, 1983 - June 30, 1984

AREA	MALE OCCUPATION/WAGE		FEMALE OCCUPATION/WAGE	
1. Rural MN CEP (Detroit Lakes, MN)	Assembler	$5.00	Assembler	$4.51
	Bartender	4.10	Bartender	4.59
	Cook	4.13	Cook	3.82
	Machine Operator	4.80	Machine Operator	3.58
	Sales Clerk	3.43	Sales Clerk	3.53
	Sales Person	3.88	Sales Person	3.87
Total Placed	791		564	

Exemplary: Female placed as Teacher in Litchfield Public School at $14.36/hour.
Female placed as Heavy Equipment Operator at Bolander Construction in Hastings at $9.00/hour

2. City of Minneapolis	Cashier	$3.62	Cashier	$4.28
	Cook	3.40	Cook	3.46
	Carpenter Apprentice	7.31	Carpenter Apprentice	7.83
	Kitchen Worker	3.97	Secretary	5.59
	Janitor	4.52	Typist	4.87
	Metal Unit Assembler	4.90	Stenographer	4.81
	Bagger	4.09	Nurse Aide	5.24
			Painter	7.53
Total Placed	253		198	

Attachment #1 (cont.)

AREA	MALE OCCUPATION/WAGE		FEMALE OCCUPATION/WAGE	
3. City of St. Paul	Tradesman (Electrician, Sheet Metal Worker)	$8.50	Assembler	$6.20
	Construction		Clerical	4.50
	Construction Laborer	7.50	Nurse Aide	4.30
	Electro-Mechanical Technician	6.25	Kitchen Aide	4.20
	Materials Handler	6.00	Domestic	4.00
	Janitor	6.00		
Total Placed	108		238	

Exemplary: Females placed as: Legal Aide ($8.40/hour), Women's Advocate ($7.14), and Carpenter Contractor ($25.00).

Males placed as: Diesel Mechanic ($10.00), Construction Laborer ($13.00), Sheet Metal Worker ($10.41).

4. Anoka County	Machinist	$8.80	Machinist	$9.95
	Cook	3.74	Cook	3.71
	Laborer	4.02	Laborer	4.36
	Janitor	4.54	Janitor	4.02
	Nurse Aide	4.50	Nurse Aide	5.00
	Truck Driver	6.19	Secretary	4.99
	Painter	6.90	Receptionist	4.67
Total Placed	262		187	

Prepared by MN Dept. of Economic Security
State Job Training Office
October, 1984

Attachment #2

Mpls - St. Paul - Selected Occupation by Sex*

	Male		Female	
	1983	1984	1983	1984
Messenger	757	924	802	862
Order Clerk		1326		1153
Computer Prog. Bus. Mfg.	2177	2199	1931	1900
Computer Operator	1338	1380	1336	1363
Electronic Tech.	1876	1971	1568	1664
Drafter III		1439		1408
Warehousemen		11.85/hr		7.52/hr
Shipping Packer		7.77/hr		6.74/hr
Guards	5.34/hr	5.55/hr	4.78/hr	5.48/hr
Order Fillers	9.83/hr		8.40/hr	

*Information from special surveys conducted in 1983 and 1984. The wage data is based on a 40 hour work week from monthly payroll data that was provided by sample establishments to the Bureau of Labor Statistics.

Prepared by MN Dept. of Economic Security
Research and Statistical Services Office
October, 1984

Ms. OAKAR. Thank you very much, Commissioner. Our next witness is Representative Simoneau.

STATEMENT OF STATE REPRESENTATIVE WAYNE SIMONEAU OF DISTRICT 51-B, STATE OF MINNESOTA

Mr. SIMONEAU. Good morning, and thank you for inviting me. I was fortunate enough to bump into Representative Phil Riveness. Phil authored the legislation for local units of government. I authored the State legislation on comparable worth, and he was here on other business, I invited him in. You may wish to have his insight.

Ms. OAKAR. Sure.

Mr. SIMONEAU. Let me first mention two documents that I distributed for the committee, and I think there's enough copies for the audience. The first is a report from the Hubert Humphrey Institute of Public Affairs' "Women, Public Policy and Development Project," by Arvonne Fraser, familiar to all of us for her long work in women's issues.

It's four pages, none of which makes very pleasant reading, because it doesn't contain a very pleasant message for us, but let me turn to page 4 on the first paragraph and quote this:

"Women will be poorer, will work more, and will more likely be sole supporters of children. As a consequence, children will be poorer."

That is not the summary of this piece, but I would tell you that it is not a very pretty picture. It's dated August, and I would have had original copies for all of you, but when I called I discovered that they charged for them, and in the interest of fiscal responsibility, I simply plagiarized them and copied them and distributed them for you.

I point out one more thing, that these are not simply observations frivolously made at some closeted institution, but rather the sources are Bureau of the Census, Department of Commerce, the Bureau of Labor Statistics, Congressional Caucus for Women's Issues, and U.S. Commission on Civil Rights.

The funding came from the Pillsbury Foundation, IDS, Community Development Program, Northwest Area Foundation, and General Mills.

It was put together thoughtfully, and it contains a message for legislators. The next one is my observations on comparable worth.

Ms. OAKAR. May I just say that unless there's an objection, we'll put Arvonne Fraser's paper in our record. We're very familiar with her in Washington, and she does excellent work, and this seems like a very fine paper to add to our whole hearing.

Mr. SIMONEAU. I would appreciate that, as I know Arvonne Fraser would also.

Ms. OAKAR. Sure.

Mr. SIMONEAU. Thank you.

The next one is a single sheet which is a kind of an outline of my thoughts, and I believe you would also use them in terms of the kind of persuasion that legislators would have to have among one's colleagues in order to pass something as sensitive as an issue of

comparable worth, both the study side of it and the implementation of it.

And let me just quickly go through it. My definition of "comparable worth" and the problems with it is "the value of an employee to an employer when measured by skill, effort, responsibility and working conditions, and basing wages on that value."

That perhaps is an oversimplification, but it is nonetheless what I hold, and what I have used, I think, effectively among my colleagues. How did we get here? Well, we do know—and it is undisputed—that women earn 60 cents for every dollar that men earn. There is no question.

We think it has slipped under that. In fact, 59 cents is the most recent figures that I have seen and have heard used. It comes from a tradition of male dominance and perhaps began in ancient times by a military hierarchy which the Roman Empire of course used very effectively.

Entirely male-dominated and vertical in this kind of authority. And when you have male dominance, you only have one other group to dominate, and that's females. Religion quickly copied it, it worked so well, amazingly well, for the warriors in old times, and had a male-dominated religious institution, which was quickly copied then—as we move from an agricultural society into a business—into an industrial society that needed business and management, and it worked so well for religion, and was working very well for the military, it had begun already in education, and you might as well use that same concept then in business, which took a firm foothold, and we have then today male-dominated institutions, hierarchies from top to bottom, with men when the result is what do you have left on the bottom but women?

And so this has been with us, and then began the institutionalized, or the structural kinds of problems that push women into the sorts of jobs that we see today.

Women don't enter jobs where there's male dominance, but enter into jobs that through peer pressure, and through their education, the kinds of persuasion that some of our early education gave us to move into those kinds of jobs which were, unfortunately, jobs available that didn't pay much, didn't have much for benefits attached to them.

There's also areas of employment closed to women, closed not because of a deliberate intentional prohibition against it, but because there were fields of employment that weren't sensitive to special needs of women, pregnancy, for one, transportation needs, for another.

The flip side is that there were jobs open for women that, as I mentioned, didn't have benefits, paid minimum wage, worked part time, short hours, perhaps had access to mass transit to get people there. Where do we go, then, from this point?

Well, I am fond of evaluating jobs. The State had an evaluation system in it. I trust that system is unbiased, but when one evaluates jobs, look for bias and the factors that go into making that evaluation. At that point then, as the State did, one can determine fields of employment that are female-dominated and that are male-dominated, and then begin to make the kinds of financial adjust-

ments to close that gap, based on the worth that was just determined by the evaluation system.

There's more to it in my mind: hiring practices of employers, for example. If employers consistently go to educational facilities that graduates only men in that field, that's all they'll surely will hire. So that hiring practices, whether it's by recruitment company or directly through the employer, have to be sensitive to trying to bring women into the sorts of positions that perhaps were traditionally male-dominated, but through the changing attitudes of folks now can easily and are easily accessed by women.

PROMOTING WOMEN

The employers have to be sensitive—and this is public and private employers alike—to promotion opportunities and not deny promotions because of, for example, pregnancy leaves, or of some other special needs. Those have to be built in.

The institutionalized side is, "Well, you missed a year's work and therefore people moved ahead of you in terms of that opportunity." That cannot be part of the thinking of our management in the eighties. Providing educational opportunities for women within their employment, and educational opportunities when technological changes occur which either leaves that job requiring less people to move into it, or simply is the end of the life cycle of that kind of an industry or business or purpose of employment, that employers have to be sensitive to retraining women the same as they are retraining men.

Also important is transportation, car pool availability, bus transportation, safety in transportation. The employer isn't apt to provide a safe bus stop, but the employer can adjust the hours of working women so that the bus stop is at a safer time of day, for example.

Work schedules, flextime, and mobility within companies, shared time, day care availability, whether it's employer-sponsored or Government-sponsored, is obviously becoming a critical need and has to be incorporated into that.

You have heard, then, our Minnesota history. I will not dwell on that, but I would then remind committee that Representative Riveness is here. He did author the local units bill, and you may wish to hear from him, or he'd be happy to respond to questions.

Thank you.

[The articles follow:]

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August, 1984

WORKER, MOTHER, WIFE

The Future of Today's Girls

Current trends and Census data point to a very different future for today's girls. Society and many parents expect them to grow up to be wives, mothers and sometime workers. All trends indicate the reality will be different. They will be workers, mothers and wives, in that order.

Later marriage, smaller families, rising divorce and remarriage rates, longer life spans, and changing economic conditions have all driven women out of the home and into the paid work force. Today, the average 20-year-old woman can expect to spend close to 30 years in the paid labor force. The woman of the future will be self-supporting much of her life, contribute to the financial support of her children, and be responsible for her retirement and old age.

In 1900, a 20-year-old white woman could expect to spend 18 years in childbearing, be widowed at 52, live to age 64, and die before her last child left home. At that time, 20% of all American women held jobs outside the home.*

By 1980, a 22-year-old married white woman could expect to have at least one child before she is 40, live to age 79, and run a 47% change of being divorced. (Twenty-two was the average age of marriage for women in 1980.) In 1981, 2 out of 3 wives worked outside the home at least part of the year, and 60% of the full-time homemakers were over 45 years old.

In March, 1984, 62% of women aged 16-64 were in the work force. 44% of labor force participants were women, and 53% of all women were in the labor force.

Today, almost 55% of U.S. children have "working" mothers -- 59% of Black children; 53% of white. One out of every five children lives with a single parent -- usually a mother.

*Census data usually do not include farm wives as workers unless they have off-farm jobs. Also, the percentage of women who work is based on all women over age 16, including women over age 65.

More women marry, more married women have children, and more couples divorce

Ninety percent of all U.S. women marry at least once before the age of 30. Of those 90% who marry, 94% will have at least one child.

In 1960, 9% of U.S. women had never married; today it is only 6%. Yet lower proportions of women have been listed as currently married in each census since 1960. In that year, 67% of all adult women were married; in 1980, only 59%.

Between 1950 and 1980, childlessness declined dramatically--from 20% to 6%.

In 1965, married white women aged 18-24 could expect to have 3.1 children. By the late 1970's, this rate had dropped to only 2 children.

In 1983, white women averaged 71.4 births per 1,000, Blacks 86.4, and Hispanics 102.4. Women who did not finish high school had 90 births per 1,000, high school graduates 77.6 and college graduates 63.1. Childbearing is increasing among women in their 30's as are out-of-wedlock births.

The divorce rate more than doubled between 1963 and 1975. Today's estimates are that 1/2 of all marriages entered into since the 1970's will or have ended in divorce. In the late 1970's, the rate of remarriage surpassed the rate of first marriages (129 remarriages per 1,000, compared to 83 first marriages).

Women work more and longer

In addition to housework and child care, employment outside the home has increased dramatically for women. In 1950, 87% of U.S. men were in the paid labor force, 35% of the women. Between 1947 and 1980, the number of women in the paid labor force increased by 173%, the number of men by 43%.

From 1961-81, women accounted for 61% of entrants into the labor force and are expected to constitute an even larger share in the future. Some experts predict that women will constitute two-thirds of the growth in the labor force during this decade, and that they will spend close to 50% of their adult life in the work force.

Women earn about 59¢ for every $1 men earn nationwide. In Minnesota it is 57¢. Fewer Minnesota women work full-time or year-round, but more Minnesota women are in the paid work force than the national average.

Working wives, working mothers

Today, both parents are earners in 60% of all married couples with children under age 18. Two-earner families are the financially successful families. They earn three times that of female-headed families.

In 1981, working wives averaged 43% of what their husbands earned. When both worked full time, year-round, wives earned 62% of what their husbands did. One out of three working wives in 1981 were clerical workers, with average earnings of $8,900. One out of four were in professional or managerial work, averaging $12,200. Husbands in this latter category averaged $28,230.

55% of all working wives in 1981 had at least one minor child in the home.

45% of all preschoolers in 1983 had working mothers.

Black children in two-parent families were more likely to have a working mother; Hispanic children less likely than either white or Black to have a working mother. Median income in 1980 for two-parent families with working mother was $26,500 and $21,300 when the mother did not work outside the home.

Female-headed families

The fastest growing type of family in the U.S. is the female-headed family. From 1972-82, female-headed families increased 57%, compared to a 10% increase in other types. Divorce, lower remarriage rates for divorced women than for divorced men, and children born out of wedlock are mainly responsible.

In 1947, 9.5% of all U.S. families were female-headed; in 1983, 15.9%. One out of five children lives in a female-headed family today; one out of two children can expect to live a part of their lives with a single parent.

In 1959, 23% of all female-headed families were in poverty. In 1980, 47.5% of Minnesota female-headed families with at least one child under age 6 were in poverty. In 1981, four out of ten Black families were female-headed, two out of ten Hispanic families and one out of ten white families. Yet 70% of all women maintaining families are white; 29% Black. Accurate data on Hispanic families are difficult to obtain because many are also included in data on whites..

Unemployment rates for Black women in 1982 were about twice that of white women. In 1982, the rate of unemployment for Black teenage women was 47%.

Sixty percent of women maintaining families were in the labor force in March, 1983. Divorcees have the highest labor force participation rates, widows the lowest.

In March, 1983, 75% of female-household heads who had children over 6 years of age were in the labor force; 55% of those with preschoolers. 83% worked full time, 86% of those aged 25 to 54 were working full time.

Child support

The average annual total child support payment in 1978 was $1,799. Between 1978 and 1981 this figure declined 16%. Only 24% of women received the full child support due in 1978. 4.6 million women did not receive child support payments due them in 1978 and about 1/3 of these women had incomes below the poverty line and were receiving some form of public assistance.

In 1982, only 59% of the 8.4 million women raising children with an absent father had been awarded child support payments. Only 47% of the 4 million awarded child support were paid the full amount in 1981.

Recently the U.S. Congress passed legislation to help states collect child support payments from delinquent parents by withholding from wages, imposing liens on property, reporting child support debts to credit agencies, and deducting from tax refunds. The legislation covers both nonwelfare and welfare cases.

The future -- unless policies change

Based on current trends, the lives of men and women will be very similar. Both will be workers outside the home for a majority of their adult lives. Both will be parents. Both are likely to have more than one spouse during a lifetime.

Unless policies change, the differences between tomorrow's men and women will be in the type and amount of work they do, the responsibilities they bear or undertake, and the amount of income and fringe benefits they receive. Women will be poorer, will work more, and will more likely be the sole supporters of children. As a consequence, children will be poorer.

Traditionally, fringe benefits of employment have been geared toward protecting the worker and his family. Women workers have often been assumed to have protection for themselves and their children through a husband. Pension systems have been developed to protect the worker and his dependent wife. Unemployment insurance was designed to cover the primary, long term worker.

Today, employment questions for women include questions of health care for themselves and their dependents, child care, pregnancy leave and maternity benefits, insurance, pensions, social security, disability and unemployment. All become vital when women earn less, live longer and cannot rely on marriage for financial security. Child care and transportation for employees and their children who go to day care centers are also major issues for the growing number of young women who must work to help support their families.

Earnings are directly correlated to education, but women must be much more highly educated than men to earn comparable salaries. In 1981, husbands who had not finished high school earned more than wives who had more than five years of college, $15,100 compared to $14,910.

The challenge for parents, educators, policy makers and the media is to take the recent Census data and current trends into account when developing programs and policies for the future. Failure to do so is an abrogation of responsibility. Public policy based on nostalgia for a world that might have been is destined to create social, economic and political chaos for future generations.

* * * * *

Sources for this publication include:

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COMPARABLE WORTH

Definition: Value of an employee to the employer when measured by skill, effort, responsibility and working conditions

AND

basing wages on that value.

What brought us to the dilemma we find ourselves in today?

- o Women earn 60¢ for each $1.00 earned by men
- o Tradition of centuries old male dominance (military, religion, education)
- o All our male dominated hierarchies which "ranked" men on higher levels than women
- o Expansion to business management as we moved from an agricultural society to an industrial society, e.g., chief executive officers (CEOs), boards of directors, etc.
- o Vertical lines of authority in modern society, including democratic forms of government
- o Women not entering into fields of employment which were traditionally organized for collective bargaining; instead they entered roles perceived to be "female" employment
- o Peer pressure, family education, religion steered women into these positions (structural, or institutionalized, causes)
- o Areas of employment closed to women because of special concerns, pregnancy, safe transportation
- o Areas of employment open to women because of availability, part-time, minimum wage, no benefits, temporary, created a structural employment "ghetto" for older working females

Where do we go? Policy making decisions, encouragement, incentives.

- o Evaluation of jobs must be unbiased
- o Female dominated areas of employment identified and wages brought up to male dominated levels through collective bargaining, employer salary schedules and a projected period of time
- o Hiring practices of employers -- look to educational institutions that graduate women for new employees recruitment firms which are sensitive to women in the work force

COMPARABLE WORTH (page two)

- o Promotion of women to more responsible, higher-paying jobs
- o Provision of educational opportunities for women: tuition reimbursement, seminars, location of training opportunities, retraining for technological changes

  Also, transportation car pool availability, safe bus routes, time-of-day employment opportunities
- o Work schedules: flex-time, mobility within companies, shared time, day care availability

Minnesota legislative history:

- o State employees now under comparable worth adjustments
- o Local political units under a requirement to evaluate employees for "worth," make adjustments by 1986
- o Public utilities, monopolies whose rates are fixed, should examine employees' values
- o Vendor and service oriented employers serving governmental units should be required to have a comparable worth statement
- o Eventually all employers will move in that direction

Representative Wayne Simoneau
October 18, 1984

Ms. OAKAR. Thank you very much, Representative. Would you like to give some of your insights to the committee? We'd love to have them.

Mr. RIVENESS. Thank you, Madam Chair and Congressman Sikorski. It's a real pleasure for me to be here to share some thoughts with you.

I believe that pay equity, or comparable worth, is not a trendy issue. It is not copycat legislation. It's basic economic justice. It's the issue of the eighties in terms of poverty, and those who have observed and observed very accurately that 50 percent of the female-headed households living in poverty would not be there if they were compensated for the real value of their work.

That strikes a real resonant chord with me, and I think that's why we're here. That's why we care so deeply. Those who opposed the bill that extended pay equity in this State to local units of government had a series of objections, not all of which I will cite, but a few, I think, are interesting in terms of our history in this State.

Some said "You'll expose us to suit if you require us to examine our pay practices in our local units of government. Our employees will end up suing us."

Ms. OAKAR. Excuse me, but how well I know that agony. [Laughter.]

Haven't we heard that before?

Mr. RIVENESS. And in fact there's an answer. We probably share the same answer, and that is in fact if you're discriminating right now, you're already susceptible to suit under title VII and others, and in fact in Minnesota we went a step further in cooperation with local units of government, and we said "We will hold you harmless from suit under State law for a period of about 2 years while you're doing your analysis."

Others said the marketplace should set the wages, and that's a common argument. I enjoy the one in which persons who feel that they have a real affirmative stance on this issue say "I believe in making more opportunities available for women to move into male-dominated classes."

But the real scenario there is, if we can assume for a second that there is a finite number of jobs and there is an ebb and flow, if you have women moving into male-dominated classes, clearly you need to have men moving into female-dominated classes.

What that says is men would have to go back to school to learn more in order to earn less unless we change the system. Finally, and Commissioner Rothchild has already covered this, we had an objection that—very nice one, and it said "This sounds like a good concept. We're interested in it. The National League of Cities has a position on it, and we'll do it voluntarily."

Clearly, if in Minnesota and other States this was to be done voluntarily with the local unit of government by the year 2000, we'll still probably be discussing pay equity. I think we have a good solid bill. I think the implementation under the leadership of our staff has just been excellent.

The monitoring in this State by the League of Women Voters, I think, will keep some pressure on for a good partnership in this area, and I'm glad that at the Federal level you're looking to new

initiatives in this area, and it's a real pleasure for me to be here. Thank you.

Ms. OAKAR. Well, thank you very much. This panel is so vital to us because you have done the work, and your State is better off because you did do the right thing. I think your experience is very important for our record.

Congressman, do you have questions?

Mr. SIKORSKI. Yes, but I'll defer to you.

Ms. OAKAR. OK. Well, whatever way you would want it. This is your hometown. [Laughter.]

Mr. SIKORSKI. I'll let you lead the way, and then I'll do the clean-up batting.

Ms. OAKAR. OK. Good. He usually does, too, by the way. [Laughter.]

Let me just ask Commissioner Rothchild a question or two. You mentioned in your opening statement that there were an awful lot of hypotheticals, and Representative Riveness said very similar things.

One of the points that you made that I thought was very important is that you also increased the salaries of—10 percent of the individuals who were male.

I think we need more men going into professions like social work and teaching and nursing. My own secretary in Washington happens to be male. It was interesting when I interviewed him, along with the other individuals, the last thing he said is "I hope you don't discriminate against me because I happen to be male."

Mr. SIKORSKI. He got his job, then? [Laughter.]

Ms. OAKAR. He got it. He was, in my judgment, the best qualified. The reality of it is that very few men go into that kind of work, and it's very, very important. Everyone knows how important secretarial work is to one's office.

Did you do any kind of a study on who these people were? In other words, were they heads of households, or were they older women, younger women, older men, younger men?

Had they worked long for the State, or just a few years?

Ms. ROTHCHILD. No, Madam Chair, the workers who actually received increases were probably a very representative sample of our State workers. As I say, they were people in 151 different job classes. The ones that were eligible were by the nature of the job class, so that you're dealing with the structure of the job class system rather than with individuals.

So my assumption is that those that actually received the increases would in general reflect the general work population. I'd like to say further that essentially what we're trying to do is eliminate the dual wage structure. I mean, we found a clear dual wage structure, where male jobs tended to scatter around a salary practice line, female jobs were all below that line, and in fact formed a separate and not equal line, because it was well below.

So we're closing that wage gap. Our assumption is that once you have a single wage system, that that will probably do more to encourage an integration by job class if both men and women are doing jobs than when you have a dual wage structure.

Simply, you cannot expect men, as Representative Riveness says, to go into lower paying jobs if they have an option of the higher

paying jobs. So we think that it's not an either-or. I know some of the opponents say "Well, this will do away with affirmative action, in trying to encourage women to go into nontraditional jobs."

I don't see it as an either-or. I see it as helping to break down the stereotypes of work once you have a single wage system, based on the value of the work rather than on the gender of the incumbent.

Ms. OAKAR. Did you have any difficulty in your study with taking as a whole the blue-collar and white-collar workers and evaluating them in general, rather than exclusively separating the two?

Ms. ROTHCHILD. Madam Chair, we use the Hay system for all our job classes, from the person who sweeps floors to the Governor. I know that's another argument. In fact, Fortune Magazine in their article on comparable worth had a full-page glossy picture of apples and oranges.

Ms. OAKAR. I remember that. Go on.

Ms. ROTHCHILD. And they say that you cannot compare apples and oranges. In fact, you can. You can compare them on the number of calories, you can compare them on the amount of vitamin A, the moisture content, the weight.

There are common characteristics to apples and oranges. There are common characteristics to jobs, common to all jobs, whether the Governor or anybody, and those are the characteristics that are measured through a job evaluation system.

So we had a single system for all workers, and I must say there's simply no way you can do comparable worth unless you apply the same standards of value to all the jobs in your organization.

Right now we have standards of value. We call them dollar bills. That's a numerical weighting that we put on jobs. Unfortunately, we put that weighting more for men's jobs than women's jobs, and this is a way to try and get away from that.

Ms. OAKAR. Thank you.

Commissioner Beerhalter, you also mentioned something— another area that I'm very, very interested in. Congressman Sikorski and I are active in something called the Northeast-Midwest Coalition. One of the goals of our coalition in this last Congress and the next Congress is training and employment.

I happen to cochair one of the task Forces related to that issue. Do you see a relationship between job training, the Job Training and Partnership Act, job training in general, for example, and the issue of pay equity?

Ms. BEERHALTER. As you know, under the new Job Training Partnership Act, Governors have the responsibility to set goals for how the programs are operated in local areas, but the local areas have the opportunity to tailor those to the specific economic conditions and unemployed or underemployed workers they have in their areas.

In Minnesota, as I'm sure in many others, women have been a priority target group. Although they do not have the 40 percent set-aside that youths do and no monetary set-aside, there's been a very strong move to gather a management information system that will tell us who's being served, what kind of training they are getting, and what kinds of jobs they are going into.

At the State level, there is a very strong commitment to make sure that there is not training for jobs that aren't going to be there, also trying to overcome some of the sex bias in training.

This requires a commitment at the local level from the local private industry council and from the local educational institutions. Some of the higher educational institutions in the vo-tech schools, the community colleges, that do a large amount of the training under the Job Training Partnership Act have had difficulties themselves in moving into this new and changing society, determining what kind of courses are valid for the continuation and which are not.

And this of course gets into who are their staff, what kind of training can they do? I believe there have been strong strides taken in Minnesota in recognizing that need within the higher education community in the last few years, the same as there has been growing within the employment and training community.

We certainly aren't there, but we are starting to get data out of both the training programs like job training partnership, and the vocational schools to give us a better idea on how well we're doing, if we're making any progress and how far we need to go.

Ms. OAKAR. Thank you.

To either or both of the State representatives, how did you answer the question that reclassifying and paying female-dominated occupations would make the State go bankrupt, or cost millions and millions of dollars?

That's the argument we hear. We're going to contribute to this deficit, which is already enormous.

Mr. SIMONEAU. Madam Chair, really in several ways. First comes strategy. The commissioner and several of us decided that it would be best to pass the bill that simply outlined what ought to occur in a future year.

The bill then didn't need an appropriation attached to it. We passed that in 1982, but we outlined what should occur for the next round of collective bargaining. So when it didn't have an appropriation, the question of dollars—said "What'll it cost? Well, it might cost $40 million. Well, how are you going to distribute that?"

Well, we're going to do it over time. We didn't put a fixed date to accomplish a specific goal. Through our discussions and presentations on the bill, we said that we can probably make these adjustments in two bienniums, 4 years.

We said that it looks at this point that it'll cost— I think it was $40 million—to make the total correction.

Ms. OAKAR. What was the total budget for payroll?

Mr. SIMONEAU. At that time it was just under $1 billion, I think about $940 million or $950 million of payroll going out.

Ms. OAKAR. It was a lot of money, but it was proportioned.

Mr. SIMONEAU. Well, it was not a large amount in terms of salary adjustments that we were talking about.

Ms. OAKAR. Sure.

Mr. SIMONEAU. So from that point of view, the strategy of passing a bill without the appropriations on it and then the second is that when you did sit down to distribute the money, you didn't have to draw it all out and put it in, but rather you took a part of it and you gave it to the collective bargaining process to go over.

In that terms, I think our strategy in that kind of long-range planning worked very well.

Ms. OAKAR. Sounds like it really does.

Representative Riveness, did you want to comment?

Mr. RIVENESS. Madam Chair, I would have two comments on that. First of all, the example of the Washington State case tells us that the cost of not implementing can be very, very high.

And second, this issue probably was the one most used by local units of government to try to kill this bill. We would have representatives of some of these associations saying, "If to implement pay equity were to cost 10 percent of payroll in the counties, this would be the bill."

If it were to cost 20 percent, this would be the bill. And the way we really countered that was to show that from our understanding of precedents in Minnesota and also elsewhere in the country, that pay equity adjustments had averaged 2 to 4 percent of payroll, and we kept saying that and kept encouraging people about that.

We had one example of a city having implemented pay equity in Minnesota, and it cost 1 percent of payroll to achieve pay equity. And so that was kind of our response.

Ms. OAKAR. You were mentioning the various arguments you used in defending your pay equity proposal. We've heard them all as well, some of which are so outlandish. I know the argument about the marketplace. Fortune magazine used it in an article on pay equity, claiming that the market will just take its toll and correct the situation.

That was the same argument, you know, used for slavery, and child labor.

So it's interesting how we hear the repetition of arguments down through our country's history. Gerry, you must be very proud of your State in what they did, and the leadership I know you provided. I'd like to turn the questioning over to you.

Mr. SIKORSKI. Thank you.

Where are we in relationship to other States in terms of State and local action?

Mr. RIVENESS. My understanding, Congressman, is that we were the first State to pass a local pay equity bill. I think there are some 30 States that are in some level of progress with regard to implementing pay equity at the State level.

But I think we were kind of on the cutting edge of extending this to the local level, which is both exciting and also certainly problematic, because you know, you're carving new territory.

Wayne?

Mr. SIMONEAU. Yes.

Madam Chair and Congressman, Minnesota was the first State to pass it, but since then I think it's in excess of 20 that are now looking at it. For example, Ohio is in the process of completing a pay equity bill. Ohio is completing a pay equity bill and implementing a collective-bargaining process.

Ms. OAKAR. That's because we have a new Governor.

Mr. SIMONEAU. Yes. [Laughter.]

Ms. OAKAR. Really.

Mr. SIMONEAU. They've recently passed a PELRA law that will begin to examine it. We avoided in Minnesota the kind of contro-

versy that occurred in some cities. Perhaps that would indicate that the larger you are, the easier it is to work with. I'm not sure if that's going to walk through in all cases, but certainly a large State like Washington, which I think is similar in terms of numbers of public employees, as I recall, and similar in population, got themselves in an awful lot of trouble.

There's some interesting reports on that, worthwhile reading, mostly from an avoidance standpoint. If you want to protect oneself, you better read the Washington story to find out what they did wrong, so that doesn't happen to you.

Ms. OAKAR. That's right.

Mr. SIMONEAU. But as far as other States, I would guess that over this next biennium in their implementation we must see half the States now moving in some comparable worth direction.

Mr. SIKORSKI. Isn't it now the time that they should be, because as I look at the numbers, the States have some surpluses that they didn't have 3 or 4 years ago. If we have problems with the Federal deficit affecting interest rates and economic downturn, and the rest, if we're going to get moving in this area with the dollars backing it up, now is the time for at least the State and locals to be working on it, since we're not going to get better times, in States, at least.

Mr. SIMONEAU. I would agree.

Mr. SIKORSKI. OK.

Nina and Wayne, the collective-bargaining process on this, how did that work? Was it $20 million?

Ms. ROTHCHILD. $21.8 million.

Mr. SIKORSKI. $21.8 million.

Ms. ROTHCHILD. We were negotiating contracts, and I think one of the things that you have to really be careful about, the opponents will try to split workers. They will try to pit the traditionally male jobholders from their female counterparts, and they will start blaming pay equity for things that management's been trying to do forever, which is to try and come in with as low a contract as possible, so that we were very careful in the negotiations in that first round of bargaining to settle at least our largest contract, the AFSCME contract, with what we thought was a fair settlement for all workers.

Then we went back to the table and negotiated the special set-aside pay equity money. This had been cooperative with the unions from the very beginning, but I think it's very, very important not to raise a red flag, "We're going to take away, we're going to lower wages" in order to rectify wage discrimination.

Mr. SIKORSKI. So you kept the pot separate.

Ms. ROTHCHILD. It was separate. They were earmarked funds, and it's like other negotiations and often you have different kinds of adjustments. Sometimes when you negotiate a contract or give raises you might have a cost-of-living increase, and then maybe a pot of money for merit increases.

Having two pots of money is not unusual in wage-setting activities. We just happened to have a pot of money for equity increases. We did not allow that to interfere with the general wage increases for all the employees that were collectively bargained.

Mr. SIKORSKI. And in fact, to turn the argument upside down—and there you have pay equity being a positive force that everyone can take credit for, management, the unions, everyone.

I was amazed, Barbara, at the statistics. They're very powerful. Channel 4—WCCO—is doing a series on working women this week.

I had some contact with them a couple months ago about this issue, about the fact that Minnesota is way up, and my district in particular is way up, in terms of numbers of working women.

One of the things they say on the Children, Youth and Families Committee is that the child care issue—is so interwoven with the pay issue and it's hard to not be frustrated with the lack of progress. People aren't getting paid decent wages, they don't have the benefits. They don't have the resources to put into child care. I'd like you to just comment on that child care issue, how it relates and why it's important.

Ms. BEERHALTER. First of all, I would like to demonstrate that there's been so much comment that the reason women are paid less so often is because of part-time work. I think the fact is shocking, that even for full-time workers—full-time male workers average more than $17,400 a year in Minnesota.

Female full-time workers, $9,000. So that's even for full-time workers. The disparity is the same for part-time male workers and part-time female workers. You're absolutely right, and be it in training programs or employment programs or unsubsidized employment in the community in general, child care services and the lack of them is one of the biggest hindrances to getting women into meaningful jobs or job training programs, ones that because they are single family headed households, that there aren't older children quite often who are capable of taking care of the children while there is some training going on.

Child care is a significant need. We have found that with the substantial changes that have been made. There used to be a lot of support services available under the old CETA Program and under the WIN Program for AFDC, and in both cases, the successor JEPA and WIN have extremely limited support of services right now. And that hinders things.

Ms. OAKAR. They were cut dramatically by the administration, as you know.

Ms. BEERHALTER. Oh, in the last 3½ years there have been dramatic cuts.

Mr. SIKORSKI. We lost a child care center in Stillwater. They said on the board we lost 40 percent of our kids in child care because of those cutbacks. If the case was that everything was working better, and people didn't have to work, or families were staying together, so we didn't have as many single-parent head of household type of kids everyone would say "Hurray." But it wasn't that. It was just that cutbacks forced child care into less desirable situations, sometimes a no-child-care situation.

Ms. BEERHALTER. That's one of the reasons that we did make child care definitely allowable costs under our State jobs program, the Minnesota Emergency Employment Development Act, which has been in effect for the last year and a half, and we have found because that program was targeted primarily to general assistance households, or households with no income, meaning they did not

qualify for AFDC or unemployment or anything, the family characteristics of the people eligible for priority placement under the State jobs program, they didn't intend to have as many children.

And so therefore the cost of child care was not as great as we had thought, so what our concern now is, if we alter a State commitment to jobs and training in the next upcoming biennium, we do want to try to target more to the people who were not reached by this other program, and child care is going to be a significant issue.

Mr. SIKORSKI. I was amazed that in new and relatively new programs, even with an understanding in the management of those programs, and a sensitivity toward the issue of equal pay, the pervasiveness of discrimination just flows out of it naturally. Your numbers, in terms of JEPA and the State program are remarkable.

This is a State where we've patted ourselves on the back for taking the lead in this, but with two relatively new programs, the Federal and the State program, we still see that discrimination show up.

Ms. BEERHALTER. From a public policy standpoint we have to remember the only cost or dollar figures that we're talking about is not what a person might get paid as a fair wage by a certain employer. It is also the cost to the entire society for not paying those people appropriately through other services, through welfare benefits, through food stamps, child care and the whole scheme.

Health is absolutely a major issue, and is one of the most difficult ones as far as trying to move women, especially, who may have children with signficant health problems into the work force.

Finding a way in which to continue health coverage for a substantial period of time until they get their feet on the floor and are eligible for some sort of other health care to which they may be able to partially contribute is essential.

Mr. SIMONEAU. And I'll tell you, it's a lot cheaper in those group systems, the private sector systems, than for the Federal and State governments to pay those health benefits. They just show up as a more economical item.

How does the benefits issue fit in? How do you factor that into the equal pay issue?

Ms. BEERHALTER. I don't have any statistics with me, but the lower paying jobs tend to have lower benefits.

Mr. SIMONEAU. That's the problem. The projections for the next 10 years are in low pay, low challenge, and low skill.

Ms. BEERHALTER. It's a substantial and scary issue.

Mr. SIMONEAU. Yes.

Ms. BEERHALTER. I mean you're dealing with a deficit. We're trying to avoid another deficit in the future at the State level. The local governments are trying to reduce their level of debt service and debt, and it's not a problem that anyone can solve by shoving it off on someone else. It is not totally the responsibility of any single unit of government.

It requires a contribution, a commitment, from all levels.

Mr. SIMONEAU. Have we ever looked at the benefit issue and the pay equity?

Ms. ROTHCHILD. The State has the same benefit package for all workers, so we did not need to compare how people did with bene-

fits. The local units of government in their reporting systems, if they have benefits for some workers but not others, then they have to include the equivalent of the benefits for comparing, because the local government's bill says, "Compensation not of wages only," yes.

Mr. SIMONEAU. So it's going to be factored in in the same local study.

Ms. BEERHALTER. Yes.

Mr. SIMONEAU. The private we know, and I'm sure the State and local will show up, that there will be differences there.

Ms. BEERHALTER. Yes.

Ms. OAKAR. Could you yield just on that point?

Mr. SIMONEAU. I'm done.

Ms. OAKAR. One of the reasons why so many poor women are hesitant, of getting off welfare is because entry-level jobs usually pay minimum wage with no benefits.

Ms. ROTHCHILD. That's right.

Ms. OAKAR. And they can't afford health insurance.

. Some of us still have hopes that one of these days our country will have comprehensive health care.

Ms. BEERHALTER. Madam Chair, I'd like to point out—I don't have the statistics with me, but we've just completed an executive review in which the university assisted us of what's happened in a variety of these programs, and the number of women who continued in their jobs who could have stayed on FDC after the significant changes that were made last time, even with a cut in benefits.

We were very pleasantly surprised that they clearly showed that women do want to work, even if they have to lose all benefits. But losing those benefits is not fair, and it may be more costly in the long run to the individual or the group when that lack is discovered by some accident or a serious illness.

Ms. OAKAR. Sure.

Mr. SIMONEAU. Even the founder of supply-side, the modern supply-side economics, Dr. Laffer, said 2 weeks ago that the real terrible aspect of the last 4 years economically in the country was that the low-income class in America, people in that low-income class had all incentives and assistance to move up the scale removed, and beyond that we're being taxed at a much higher rate, practically, than anyone else.

That was his comment 2 weeks ago, and it's part and parcel of the pay equity issue.

Mr. SIKORSKI. Madam Chair and Congressman, I want to point out that traditionally the public sector benefits have been uniform and have been at least adequate to meet the needs of the employees. That's not true in the private sector, particularly in the areas of employment that we find older working women trapped in, for want of a better word, the employment ghetto created by permanent part-time minimum wage jobs that don't pay any benefits at all. It's hard to get out of that. Our own unemployment compensation discussions on access to unemployment by these people would point that up.

Part of our culture is third-party payment of health care. We've seemed to have accepted that, and it hasn't worked all that well, it hasn't worked in our favor. It's too easy for third-party payers to

write checks. There's not innovative thinking at this time in terms of supplying health care benefits to everybody. In the absence of a national plan, which seems to me a long time in coming yet, the private sector and even in some ways the public sector ought to be thinking in terms of how can they provide medical care benefits, perhaps moving to a capitated allocation for their employees, and put it out for competition.

I realize that that's completely different—than the fee for service kinds of third-party payer concept that exists, and that has been effectively sold to everyone but the workers' benefit.—The medical providers and the insurance industry have fared quite well under the system, but we have systematically excluded the group of people from medical care under that concept.

So, I think we have to be more innovative. I can't at this time envision requiring, for example, some new approach to it, because I haven't spent a lot of time thinking about it, but one of the proposals that I have for the reorganization of the House in 1985, like yourselves we are up for election and will reorganize for January, is to put in an insurance committee or a health care committee to look at innovations that we can apply in public and private sectors.

As I mentioned, the public sector is in good shape, but that doesn't mean you shouldn't look at some alternatives to the traditional ways of supplying at least health care. Pensions are a somewhat different issue.

As you mentioned, it's based on your earnings. Minnesota's now moving up, and in 2 years, then, the local units of government will be moving up, and hopefully, then, it will reflect the level of benefits in 10, 20 and 30 years.

But the same problem exists in the private sector. Less than half of the employed people have access to a private pension.

Ms. OAKAR. Twenty percent of women, and about thirty percent of men, have anything other than Social Security.

Mr. SIKORSKI. All right.

Ms. OAKAR. I think you touched on a number of other areas interrelated with pay equity that affect women and men that complement the whole idea. You were really an interesting panel.

Mr. SIMONEAU. Excellent.

Ms. OAKAR. Thank you all very, very much.

Mr. SIKORSKI. Thank you.

Ms. ROTHCHILD. Thank you.

Ms. BEERHALTER. Thank you.

Ms. OAKAR. Our next witnesses are Rick Scott, the political action director of AFSCME, Minnesota Council 6, and Kathleen Cota, Government Relations, Minnesota Nurses Association.

Mr. SIMONEAU. While they're coming up here, may I also make reference to the fact that there are two candidates for office here today, Al Lahr was here and Edna Siniff is here as well.

Ms. OAKAR. Rick, would you like to begin? One thing I would like to say at the onset is that when we were working on our bills the experience of AFSCME and the Nurses Association were very helpful to the Chair. I'm very pleased that you are here as witnesses, because you're experts in the field.

STATEMENT OF RICK SCOTT, POLITICAL ACTION DIRECTOR, AFSCME/MINNESOTA

Mr. SCOTT. My name is Rick Scott, and I'm here testifying on behalf of AFSCME, the American Federation of State, County, and Municipal Employees, and to begin, I want to extend the greetings of our president, Gerald McEntee, and our women's action director, Diana Ross.

Both of them assured me that we have no greater friend for pay equity in Washington than the chairwoman of this committee. I represent Minnesota AFSCME, as I said, and the four councils of the American Federation of the State, County, and Municipal Employees who collectively represent 35,000 State and local government employees here.

Just as our parent organization, AFSCME International, is the largest union of public employees in America, we are the largest union of public employees in Minnesota. I would also add that if this hearing were held in Wisconsin or Iowa or the Dakotas, AFSCME would again be testifying as the largest public employee in the State.

I say this with some institutional pride, and also to make a point. When we in AFSCME testify in favor of pay equity for working women, we speak for our ASCME union brothers, as well as our AFSCME sisters.

We are not just a union of working women asking for pay equity, we are also a union of working men who join in that request, and not because it will benefit the majority of our members. It won't, because that majority is male.

We ask for pay equity because it's fair and long overdue. The Minnesota approach to pay equity for public employees has been a cooperative one. Employer and employee groups have worked together to sponsor legislation to implement pay equity by first studying the extent of the problem and then negotiating a reasonable time line for bringing the wages of underpaid female classes up to those of their male counterparts.

We did this first of all for our State employee bargaining units. With them we've completed the study phase and are more than halfway through the implementation phase, which will take two biennia. This last legislative session, we began the process for our local government bargaining units and their employer counterparts.

Although we have just begun the study phase, we are confident that with goodwill on all sides and a degree of patience, we can have similar success in that forum. By pursuing equal pay for working women cooperatively rather than through confrontation in a court of law, we have managed to avoid the delays, the hostilities, the legal expense and the sometimes erratic outcomes of court-imposed pay equity plans.

The Minnesota cooperative approach initiated by a legislative mandate has benefited both employers and employees alike, because it has allowed them to maintain control over every step of the process. That control is lost when women workers and their allies are forced to go to court for remedy.

We have pay equity for public employees here in Minnesota, and it's working. Let me tick off some of the reasons—some of the lessons we've learned from it.

One is that pay equity does not have to divide women and men workers into hostile camps. We explained to our male-dominated AFSCME work groups why simple justice required the upgrading for their female counterparts, and justice and fairness still count with a lot of American workers. Our male AFSCME members stood up and applauded when they heard we had successfully negotiated a pay equity settlement with the State.

Another lesson we learned is that pay equity can be achieved at a reasonable cost to the employer. In every jurisdiction where we've implemented pay equity, and this is not just Minnesota here, I'm talking about AFSCME International and its experience. The cost is between 1 and 4 percent of total payroll.

Those percentages can be made up over a reasonable period of time, 2 or 4 years, without overburdening those who pay the bill, and I would issue this challenge to those who say that it is going to cost more: show us a jurisdiction that has completed the study, has begun in a reasonable time line to implement that study, and show us a jurisdiction where the cost is 100 percent of payroll or 50 percent increase of payroll that the opponents cite.

In fact, there's a strange flip argument going on here. The people who have implemented pay equity say it's reasonable, it's easy to do, and it's economical. It's the people who haven't implemented pay equity that keep insisting with their charts and graphs that it's impossible to do and it costs too much.

Our women workers are willing to wait 2 to 4 years for full pay equity if it takes that long to implement a reasonable plan. That means that radical solutions like male wage freezes or cuts are not necessary to establish pay equity. Our women workers don't want those sorts of solutions that create long-standing hostilities in the workplace. I don't think the employers should want them either, and frankly, we find those sorts of pay equity solutions suggested by the opponents of pay equity, rather than by its supporters.

Pay inequities are measurable even when we have yet to design the perfect instrument to measure them. In many jurisdictions the pay distortions are so obvious, even when measured by imperfect tools, that it would be piling up injustices not to correct them promptly.

Waiting for the perfect pay equity measuring instrument to be designed before setting about the task is a little like waiting for the medical cure-all to be discovered before taking any medication at all.

In both cases the best is being used to prevent the good. In concluding, I want to say that it is most appropriate for Government to take the lead in demonstrating a cooperative approach to pay equity. I don't think any reasonable person denies that certain public jobs were historically paid less because women did them, and it was assumed that a single woman needed less to live on than the father of a family. The librarian, the nurse, the cook, the schoolteacher are obvious examples.

We now realize that all those assumptions jumbled together aren't accurate, and probably weren't even when they were origi-

nally made. We can't change history, but we can change the effects historical errors may still exercise today.

The Minnesota experience shows that not only can historical pay inequity be corrected, but it can be done cooperatively, at a reasonable cost, in a relatively short period of time, with worker cooperation and increased employee morale.

I urge your subcommittee to report out House Resolution 5092 favorably, so that we can begin the task of establishing pay equity for all public and private sector employees.

Thank you.

Ms. OAKAR. Thank you very much, Mr. Scott.

Ms. Cota?

STATEMENT OF KATHLEEN COTA, R.N., J.D., COORDINATOR, GOVERNMENTAL AFFAIRS DEPARTMENT, MINNESOTA NURSES ASSOCIATION

Ms. COTA. The Minnesota Nurses Association is an affiliate of the American Nurses Association. We represent about 11,000 nurses in Minnesota, and I think it's important to point out that the large majority of our members in this case work in the private sector and not the public sector.

Our organization very much endorses H.R. 5092. Nursing is highly female. The estimates go from 90 to 95 percent in terms of female domination, and we very much believe that this has a negative impact on the compensation that nurses receive.

As Nina Rothchild testified previously, the State of Minnesota did a comprehensive job evaluation study, and there are some interesting facts that I wanted to share with you and how that study took a look at nurses.

In all seven classifications of R.N.'s, there existed a large discrepancy between the nurses' salary and the salary of others in male-dominated job classifications judged to be similar in difficulty, know-how, accountability, and working conditions.

In most cases a nurse was paid about $200 a month less, but in some instances the difference was considerably larger. For instance, the salary of a land surveyor 2 was $569 greater than a public health nursing advisor, and the salary of a registered nurse 4 was found to be $562 a month less than a planner 3 transportation.

These are both categories that are given the same classification in terms of those four criteria. As a result of the 1982 State pay equity act, these discrepancies are being dealt with in a slow, phased-in approach, as you've heard about previously, but the scope of this State legislation is narrow, dealing only with the State employee, and further pay equity legislation is very much needed which deals with the private sector.

We felt that the legislation that you've proposed would ensure that Federal agencies responsible for enforcing pay equity laws in both sectors would act in an aggressive manner in carrying out these responsibilities, and would go a long way toward eliminating the situation where a nurse is significantly underpaid simply because he or she has chosen to practice in a female-dominated profession.

Thank you.

Ms. OAKAR. The nurses have held strikes here, over pay equity. Was that all reconciled?

Ms. COTA. That strike lasted 39 days, right. It was the Twin Cities Minneapolis/St. Paul, 6,000 nurses were involved and the equitable solution was reached.

Mr. SIKORSKI. It was the largest strike in the country.

Ms. COTA. The largest strike in the country, that is right.

Ms. OAKAR. You know, I have always had a nurse on my staff because of all the health issues that we deal with; they are so impotant. Nurses spend more time with a patient than any other health provider. One statistic that always struck me, was that a doctor made more in less than a month than the average nurse made in a year or a year and a half.

Granted that there might be some differences in education, but if you ask any American if they think nurses are valuable, you know the answer will be yes. You are certainly undervalued in terms of how you are compensated.

I wanted to ask the gentleman from AFSCME about what was touched upon by earlier testimony. Were you satisfied after the pay equity legislation passed, the studies were done, and you were sitting down at the bargaining table? Was it a problem to bargain for certain slots? How did that work? What were some of the issues involved?

Mr. SCOTT. Well, Madam Chairman, first of all, it was not a great problem, or there were not insurmountable problems is the way that I should put it.

As a union that represents as many male dominated classes in State service as female dominated classes, we wanted to make sure that everybody did feel satisfied with the approach that we had and so the first thing that we did, was that we expanded our negotiation into a very large negotiating assembly of 300 rank-and-file members that were drawn in from across the State who then were broken down into bargaining unit sections.

And each of those bargaining unit sections discussed the approaches and the needs that they had in their own area. And eventually they brought that together in the assembly of 300, and dealing with that many rank-and-file members, who returned to their job sites every day across the State and could explain to the other members the approach that we were taking, we found out that not only were our worst fears avoided, even our lesser fears were avoided. The men just understood. They worked side by side with the women workers and they understand what it means to be part of the union. A part of union is trying to raise the pay of the lowest members. That is what union is, so that they understood that once we demonstrated that the women workers were underpaid for the work that they were doing, it became their issue as well as that of the women workers.

Ms. OAKAR. We have had studies conducted on the Federal work force in terms of comparability. The studies show that Federal workers are underpaid by about 20 percent compared with private sector workers. It was never my intention to lower anyone's salary, because I think that often employees are consistently underpaid with few exceptions.

Our study, did have one stipulation. No recommendation to lower anyone's salary could be included. We did not want to pit men against women. Some groups would like to see us do that, in an effort to defeat pay equity. The issue, the issue of fairness is a family issue and that is why we stipulated in our legislation that the study could not recommend lowering pay.

Mr. SCOTT. If I could add, two other factors that we had going for us, too, that come to mind now.

One thing is that we had an employer that wanted to foster pay equity along with us as against an employer that wanted to stand against it. We think that that is extremely important that the employer work with the employee groups to foster it.

It would have been possible for the employer to have gone to our workers, our male workers, and explained all the "bad" things that were going to happen if this happened to the women workers.

That might have been a good negotiating strategy. We think that it would have been terrible social policy and our State employer did not do that.

The second thing that we had going for us is this continuing growth in confirmation that it costs somewhere between 1 and 4 percent of payroll. Those numbers, anywhere across the country, can be folded into reasonable normal pay increases as we have measured them across the past decade without redlining jobs, and without freezing jobs and without lowering them. There is no need to even suggest those radical solutions. We were not suggesting them and we were in a position where the employer was not too, and that helped us a lot.

Ms. OAKAR. Thank you, very much.

Congressman Sikorski?

Mr. SIKORSKI. Thank you.

Kathleen, you are dealing with an area, the private sector, to a great extent although you represent nurses in the State hospital system.

Ms. COTA. We have one State bargaining unit and we have a number of small units under the Charitable Hospital Act, which are small, local government.

Mr. SIKORSKI. Do you have a unit at the Veterans' Administration, too?

Ms. COTA. No, I am sorry, the Federal Veterans' Administration bargaining unit is not represented by ANA.

Mr. SIKORSKI. It is not?

Ms. COTA. No.

Mr. SIKORSKI. There is a close relationship between them because I see them at the same places.

Let me ask you if you have had, with that understanding, any experience in filing private discrimination claims in this area with the EEOC and if you have, what that experience has been?

Ms. COTA. We have not in this State, but I do know that the national has a project to identify case fact situations that would be amenable to court opinions and I think that, at this point, there is a suit being brought in Illinois.

And I cannot give you more detail than that.

Mr. SIKORSKI. Rick, I think that it bears repetition so that I am going to read it for the record.

Once again, one of your ending statements. The Minnesota experience shows that not only can historical pay inequity be corrected but it can be done cooperatively at a reasonable cost, in a relatively short period of time, with worker cooperation and increased employee morale.

And you documented it here and it has been documented elsewhere. It seems, and the thought is, with that experience on record, those who argue against it generally are arguing without merit.

They are seeing cows, they are looking at cows but they just describe horses or elephants or something that is much different.

Likewise, in dealing with your people in the negotiations that occur, with the employer, in rectifying the problem, that study is the study, the data base is absolutely essential because you know where you need to move and you know where the inequities exist and without that study, you are arguing all philosophy and prejudice and bias, and social view philosophy, but with the study, you have got facts and data.

Is that an accurate analysis, you have got to have that study data?

Mr. SCOTT. Well Madam Chairman, Mr. Sikorski, yes, it is.

And you have to have that study and data developed cooperatively again, with the employer and the employee both dealing with it.

In our most recent bill the 1984 bill that mandates local government pay equity, the exclusive bargaining reps have meet and confer rights on the design of the study and we think that that is necessary in order that the data be accepted.

One of the old axioms of justice, is that you not only have to do it, but you also have to give the appearance of doing it as well and in order that this study be acceptable and we feel that it is necessary that employers and employees work together on it.

Having said that though, I wanted to say that one of the strange objections that is coming out in Minnesota, is that we do not have the perfect measuring instrument so that maybe we should delay the whole thing.

And I understand that there are various proponents of pay equity that, make the argument, but unfortunately there are various opponents of pay equity that also make that argument and if we wait for the perfect measuring instrument, we will never get there.

Senator Berglin, who has been the Senate author, an important Senator drafter of these bills all the way down the line, is the first to point out all the difficulties with Haye's approach and with Arthur Young's approach and with other's approach, but it is like having a very high fever, you do not need an absolutely temperature to say that it is there and to know that you have to bring it down.

Mr. SIKORSKI. We hear that argument and anyone in public policymaking hears that argument across the board, but there is no perfection in human behavior. That is by definition where we are at. We hear it in acid rain, we need the perfect knowledge and then from there we will develop the perfect resolution.

My expectation is that if we had waited for the perfect light bulb, we would have been sitting here in the dark.

I thank you.

Ms. OAKAR. Thank you, both, very, very much.

Our next witnesses are Janet Boland who is the president of the Minnesota Business & Professional Women, and Carolyn Hendrixson, who is the chair of the social policy for the Minnesota League of Women Voters.

Thank you, both, very much for being here. Your organizations of business and professional women were witnesses at our hearings in Washington, and have been strong supporters of pay equity.

Carolyn, I am glad to have your pamphlet. I think that everyone here ought to have a copy of this. I am going to make sure that I have it in my library.

Thank you, very much.

Would you like to begin, Janet?

STATEMENT OF JANET BOLAND, PRESIDENT, MINNESOTA BUSINESS & PROFESSIONAL WOMEN

Ms. BOLAND. Thank you.

Madam Chairman, and of course, Representative Sikorski, I am Janet Boland, president of the Minnesota Federation of Business & Professional Women's Clubs, Inc.

Also known as BPW, of Minnesota. BPW U.S.A. of which we are a part, was founded in 1919 to improve the status of women in the work force. BPW promotes full participation, equity and economic self sufficiency for working women.

The social and economic roles of women have undergone startling changes in the past quarter of a century. For example, women's participation in the labor force, has increased dramatically. Women accounted for nearly three-fifths of the increase in the civilian labor force in the last decade. About 13 million women compared with more than 9 million men.

Nearly 45 million women over 16 years of age, are employed or looking for work. Significantly, barriers to womens entry into nontraditional fields such as science, law and engineering are weakening. In some ways, women are catching up to men. Yet, in more serious ways, women are falling behind.

Most women today continue to work in a low paid over crowded ghetto of women's jobs. Eighty percent of all women workers are clustered into clerical, sales, service, and semiskilled factory jobs, where paychecks and advancement opportunities are lean.

Women are more likely to be white-collar workers than unionized or skilled blue-collar workers. Less than 5 percent of all skilled trade workers are women. And even women professionals are segregated and underpaid in women's fields.

In 1980, 80 percent of all librarians were women and 97 percent of all preschool and kindergarten teachers were women.

Most professional women are nurses, teachers, librarians or social workers. They share low ceilings and short promotional ladders.

Discriminatory wages are a fundamental factor in women's poverty. In 1955 full-time, year round women workers, earned 64 cents to every dollar a man earned. Today that figure has dropped to 59 cents.

The average female college graduate earns less than the average male high school dropout. Less than 10 percent of all women earn over $15,000 and less than 1 percent earn more than $25,000 annually.

Women are poorer than men because their wages are lower even at comparable job levels and with equivalent amounts of experience, education, and other job related factors.

Historically, women have always earned lower wages than men, even for the same work. Their share of economic resources always has placed them in less advantageous positions than men. In the past, private transfers of income to women via marriage helped to alleviate economic hardships for some women. Now, women are much less likely to be supported for their entire adult lives.

Divorce terminates more than 1 in every 3 marriages. Yet, the incident of failure to pay court ordered child support continues to rise. Consequently women are assuming the financial responsibility for themselves and their children.

And families headed by women have grown at 10 times the rate of male headed families to a total of 14 million. In the past, marriage and working for wages were viewed as mutually exclusive activities for a woman. While the labor force participation of never married females was extensive, once married the working woman left the workplace, either by choice, because her husband would not allow her to work or because her employer would not allow married women to work.

Now, an average woman will spend over 25 years in the paid work force, but despite these facts, employers and policymakers continue to believe that women work only for luxuries or until married.

Our family structures are changing. Only 7 percent of all American families conform to the traditional model of a male breadwinner with a nonemployed wife. Increasingly women are assuming or are being forced to assume sole economic responsibility for themselves and their families.

I am a prime example of what can happen to a woman. Due to illness, my husband is unable to work and has not been able to do so for several years. Because he was forced to retire extremely early, his pension payment is very small and I have assumed the responsibility of support of the family.

I am fortunate that we only have two of our eight children at home now. My youngest son is a senior in high school and the next oldest is a senior at the university. Both of the boys are working to supplement their support but if it was not for the fact that I have a relatively good paying job compared to what most women have been able to find, we would probably be among the working poor.

While some women do choose to become heads of families, the majority find that status thrust upon them by illness, death, or divorce, and most become part of the working poor. The fact that more women are in the labor force than ever before and more women are poor, highlights the failure of public policy to assist women's efforts to achieve economic self sufficiency and economic security.

Traditional antipoverty remedies are inadequate because they do not address one of the roots of the feminization of poverty. The sex segregated-occupational structure.

Equal pay for work of comparable worth, is essential to end women's poverty. The problems of the female poor are not wholly separable from the problems faced by other working women, however.

As a result, we must address the general problems that all working women face, labor market discrimination and occupational segregation, sex-based wage differentials, lack of advancement opportunities, and lack of good childcare.

It is not sufficient to encourage women to enter nontraditional jobs with higher pay in order to raise their economic status. Some women are interested in such work and others are not.

In addition, there is a limit to the number of the higher status jobs. The point is not solely to move women out of their narrow range of jobs, but also to upgrade the value of worth of women's jobs. Equal pay for work of comparable worth is a strategy which BPW endorses to address the persistent undervaluing of women's work and the occupational segregation that they face in the labor market.

Understanding that women's poverty does not respond to traditional solutions and also that it is closely related to the low wages paid for women's work, we must act to improve employment conditions and opportunities to women.

Implementing the principal of pay equity by fairly recognizing the value of women's work, will enable women to move towards economic self sufficiency and equality. Working poor women need what all working women need, decent pay for their labor.

BPW is working in support of this issue in several ways in Minnesota. Comparable worth is the No. 2 issue on our legislative platform, second only to the Equal Rights Amendment. We are encouraging our members to study the issue and to share the information that they gain with others in their communities. In addition as local units of government in Minnesota begin the process of implementation of comparable worth, we are asking our members to monitor the process and to encourage their employers to follow suit.

BPW of Minnesota feels very strongly that equal pay for work of comparable worth is an essential strategy in efforts to eliminate the growing poverty of women. We feel fortunate that we live in a State that has been farsighted enough to implement the policy in our State government as well as local units of government.

But we will not rest on this accomplishment. We will continue to educate the public and encourage private industry to implement pay for work of comparable worth.

Thank you.

Ms. OAKAR. Thank you, very much.

And thank you for sharing your personal experience, because I think sometimes we talk about statistics and unless we get anecdotal occasionally, like your own experience, we fail to realize that this is a family issue, is it not?

Ms. BOLAND. That is right.

Ms. OAKAR. I think that we have heard from so many women across the country who have had almost identical experiences. I am glad that you shared both facets with us.

Ms. BOLAND. Another personal incident that you might be interested in, I had worked before, while the children were younger and had gone to school part time, and in 1974 I received my degree from the University of Minnesota.

Two years after I had had that degree, I had changed jobs and at my new position, my pay was $10,500 a year, and my husband, who has a seventh grade education, was making $30,000 a year and up until that point, he had never quite realized the difference and that it was really out there.

And if he was working now, he would still be making more money than I was. It was not a union job, which I am sure is what helped to keep his wages high. But the fact is that women are being paid less than men and unless we use the type of system that the State of Minnesota has used in the private sector, this is going to continue.

Ms. OAKAR. Carolyn, would you like to come forward?

STATEMENT OF CAROLYN HENDRIXSON, SOCIAL POLICY CO-CHAIR LEAGUE OF WOMEN VOTERS, MINNESOTA

Ms. HENDRIXSON. Thank you, Madam Chair and Congressman Sikorsky, I am pleased to be here and my name is Carolyn Hendrixson and I represent the League of Women Voters of Minnesota and the league is very pleased to be here today.

The league is a nonpartisan political organization which encourages informed citizen participation in government. In Minnesota there are approximately 3,100 members organized in 64 local leagues throughout the State.

The league always has to have a position before it can take action on any legislation and the league's longstanding position to promote social justice by securing equal rights for all and combatting discrimination and poverty is the foundation for our support of pay equity legislation.

On the national level, the League of Women Voters of the United States is supporting the Federal pay equity bill, and helping to assure that working women's unions and women's organizations have a voice in the recommendation of a job evaluation consultant for the Federal Government.

In Minnesota, during the last legislative session the league advocated passage of the local government pay equity bill which extended pay equity to local cities, counties, and school boards. This year, the league is providing educational programs on pay equity and monitoring implementation of the law.

Just this Tuesday evening, we had a program called Pay Equity, the Quiet Revolution. It was open to league members, the community, members of other community organizations, and employees and employers, public employers.

And I am really pleased to announce that we had 190 people in attendance at our meeting, representing all of those different groups and they were from all over the State of Minnesota, and they were not just from the metropolitan area.

At that meeting, we had available our new guidebook, which I am sorry, gets blue all over everyone's hands, on monitoring pay equity. This guidebook gives a basic background on the issue of pay equity and then some tips on how to monitor and also includes in the back, a section on questions and answers. Some of those typical questions that opponents of pay equity always ask, so that when friends of pay equity are out there monitoring, they will have the answers.

This fall the league organized a speakers' bureau, sending women leaders of Minnesota to eight local communities such as Alexandria, Willmar, Hutchinson, St. Cloud, and Little Falls, to talk about women's issues. And in some talks, pay equity was the sole topic and in others, pay equity was discussed along with the important issues of the Equal Rights Amendment, and the feminization of poverty. At the same time, several metropolitan leagues have sponsored public meetings on pay equity.

The good news is that the idea of pay equity is very well received by women througout the State. The alleged rural/urban split that often occurs on different issues in Minnesota, does not appear to exist among Minnesota women on this issue. Women in Hutchinson and Alexandria are just as ready to monitor the new law as those in Minneapolis and White Bear Lake.

The league plans to continue as a statewide resource for community groups who want to learn about the issue and who are to be a part of the pay equity effort in local communities.

Pay equity is a new idea. There are many people who work in the public sector and in the private sector who are concerned about this new idea. When league members observe opposition to pay equity, our most effective response is to point out that pay equity is working for Minnesota State employees. The new idea that work of women is as valuable to an employer and to our society as the work of men is working in Minnesota State government.

As an organization concerned with equal rights, and social justice, we are excited to be a part of hit this new experience, and we are dedicated to its success.

Thank you.

Ms. OAKAR. Well thank you, very much, both of you and congratulations again to both of your organizations.

I want to just ask one question.

Do you think that the Federal Government has a role to play in the issue of pay equity?

Should we serve as a role model in terms of the way that we treat our employees?

Ms. BOLAND. I think that the Federal Government has a role to play. I am afraid that what is going to end up happening, is that as each State looks at this problem, each one is going to develop a different type of a program. I would like to see the Federal Government take a lead and lay guidelines so that the State would have something that they would have to follow and so that this would be equal across the board, across the United States.

Ms. OAKAR. The average Federal employee who is female, who has been working for about 4 years, makes $17,000. The average male makes $28,000.

And it is not to say that the male deserves less. We just need to examine the system. Our classification system has not been examined since 1923. And somewhere along the line, there must be some new definitions that are appropriate.

The Federal Government has been slow. Here is a State setting an example, for its private industries, as well as the Federal Government.

Most States have studies or are fighting it in court, and we have not done very much, if anything, on a Federal level. And yet, we have as Congressman Sikorski, points out, the largest work force really as a group in the country.

Ms. HENDRIXSON. Madam Chair, I think that it is important that the Federal Government is involved as a role model. As you mentioned in the State of Minnesota, the State government has worked as a role model and it is very effective.

In the past, the Federal Government has worked as a role model in affirmative action and equal opportunity and it is the best place to start.

I think also that the Federal Government if they begin their Federal employer is everywhere throughout the country and it would bring pay equity to states throughout the Union.

Ms. OAKAR. Right.

Well thank you, both, very much.

Congressman Sikorski?

Mr. SIKORSKI. I just want to thank you both, as well, and compliment you on what I think is the real spearheading force to move from where we are in Minnesota in the public sector into the private sector.

It is your two organizations with an incredible amount of legitimacy, that will lead the way with the private sector.

As a State, we can provide a role model and hopefully the Federal Government will be coming quickly into that role model as well.

But your organizations have done a lot already and you will be called upon in the future to do a lot more to push and pull and pinch and shove and coddle and cajole and do all the things that need to be done to move a whole host of individuals and organized entities in the private sector along the way and I compliment you for what you have done already.

Thank you.

Ms. OAKAR. Thank you, very much.

We have a number of people in the audience who have asked to testify. The Chair would just like to state that anyone who wants to submit a statement, for the record, or if Congressman Sikorski has other constituents who would like to add to our record, we would be delighted to have all of the information whether you are for pay equity or against it.

Cathy Straggas will give you our address so that you can mail us your statement.

Unfortunately, I am not going to be able to stay too much longer, because of my own schedule. I have to fly back to my own district in Cleveland, OH, for a speech that I have to give later this afternoon. But, we have about 20 minutes more and so I would like to call on the people who have asked if they could speak.

We would be delighted to have you speak. I would like to, however, explain that we are going to have to limit each speaker to about 5 minutes. That is the only difficulty but we would be happy to have your entire testimony for our record.

I would like to start with the State senator, Linda Berglin who is the chair of a very important committee, Health, Welfare and Corrections Committee, from the State of Minnesota.

Senator, thank you, very much for being here and I am glad to be in this beautiful capitol building.

Senator BERGLIN. This room is being remodeled.

Ms. OAKAR. The Congressman, who is a former State senator, showed me, the beautiful building. I am sure that Minnesota is very proud of its beautiful building.

Senator, would you like to speak?

STATEMENT OF HON. LINDA BERGLIN, STATE SENATOR FROM THE STATE OF MINNESOTA

Ms. BERGLIN. Thank you.

It is a pleasure to be here today and I am not sure how much information that you have gotten. I do not want to be repetitive and I do want to be brief to allow others a chance to testify.

I was the author of the Minnesota pay equity law for our State government employees and also this last session, we somehow managed to squeak by with the one for local government.

It is one of those amazing things that almost did not pass, and then suddenly everybody was voting for it.

Ms. OAKAR. That was my experience on the House side. We had a hard time getting it out of committee and then all of a sudden the reality hit the House members.

Mr. SIKORSKI. We might explain on that, we had trouble getting quorums and we had trouble with the 5-minute rule in the House which says you cannot be meeting in subcommittee or committee if you are under the 5-minute rule on the floor, but all of a sudden after about 5 or 10 different meetings, we finally got—everyone there lined up and all of a sudden everyone was for it. There was not a vote, I recall, against it.

Ms. OAKAR. No.

Ms. BERGLIN. Well my colleague, Nancy Brataas was very helpful in helping to make this a bipartisan issue, which made it possible to get the local government bill passed.

I think that pay equity is an important issue and I am glad to know that there are people in the Federal Government who are looking at the issue, and what can be done at the Federal level.

Estimates are that the pay gap between men and women in our country today, can be attributed about 50 percent to pay equity problems in equity as it exists because of historical, traditional, values that we have given to work that is done primarily by women in our society.

And we know that this is true because in the late 1800's, 98 percent of all the clerical help in the United States were men. And they were paid twice what the blue-collar workers in our society were paid.

Ms. OAKAR. That is very interesting, I did not know that.

Ms. BERGLIN. That is true and I always like to remember that when people are giving me a hard time about market factors and about how we should let the market dictate what we pay people, because in fact, and indeed, the market does not work for women in female dominated occupations.

We have seen examples time after time where there have been shortages of clerical staff, shortages of nursing staff and yet, the solution to the problem was not to increase the wages for those groups of people.

We know that in Minnesota that it has not caused us to go bankrupt, it has not caused an economic revolution to take place, all of which I am sure that those of you in Congress will hear as you discuss the issue.

It has caused us thus far, around 2 percent of our payroll and we anticipate that when pay equity is completed for our State governmental employees that it will be around 4 percent.

But that is a dramatic thing for some of those people who are impacted by pay equity. We had about 151 job classes in Minnesota that were affected that was about 8,225 employees of our 34,000 employees and the average clerical worker received an increase over the biennium of $1,600 and of course if we are able to complete our pay equity agreement during the next biennium, it would be approximately that much again.

Half of the State health care workers, received pay equity raises averaging $1,630. That is a lot of money for those families and believe me, it is a lot of money for a single parent who is trying to raise kids alone.

And we know that single parent families are the largest growing group of people in poverty in America today.

And it is having far reaching consequences for our society in terms of having to deal with the problems that children have when they are raised in poverty.

Pay equity is also something that I believe eventually needs to become firmly rooted in the principles that are embodied in title VII. Until then, I think that we need to have models that work, so that people can see that it works, so that people can overcome the fear that they might have or the stereotypes that they might have, similar to the kinds of stereotypes that they had about how the world would come to an end if we changed child labor laws, how the world would come to an end, when we passed the original equal pay laws. We need to have models that will help people understand that this is not going to cause the world to come to an end, and in fact, is something that will benefit all of us, men and women alike in our society.

In the meantime, however, I think that it is important to be thinking in the long term. This is not something that the government can be involved in alone. Private sector also must at some point, become involved in pay equity.

There are, of course, some private employers that have become involved either because of bargaining agreements, or because of court action. However, I think that in the long run, that the Federal Government not only needs to be a role model in terms of what they do with their own employees, but needs to be a role model in terms of expecting that this is the way that we will view title VII.

Obviously we cannot have disparities between the way that women are treated in Government jobs and the way that women are going to be treated in the private sector.

And so the Government then, in the long run, I think will have a role in terms of monitoring pay equity because like any equal opportunity type of law, it will have various interpretations as to what is equity and what is not equity and how do you measure things, when is someone being treated fairly and when are they not being treated fairly. And there will have to be a place where people can go with those kinds of disputes. And it will have to be the Federal Government that has provided that kind of monitoring process for us in the other areas of equal opportunity in employment.

So those are the kinds of things that I hope that we will be thinking about in the long run. I also want to let you know that I think for some people we need to be providing mechanisms for ways that they can implement pay equity within their places of employment without having to hire multimillion dollar consultants. And that is one of the things that I am hopeful about in terms of our local government law. We have as you may have heard from our commissioner of employee relations, handbooks that are being distributed and models that are being developed so that those local units of government will be able to implement an evaluation system within their own employment system without having to hire an expensive consultant if they do not want to.

And when these models begin to develop and obviously the government will provide, is able to provide a leadership role in that, in terms of creating evaluation systems for our own employees, we will then pave the way to help others learn how to do this without having to feel like they need to hire an expensive consultant. Because many employers are not in a position to do that.

I will stop now and I will let you ask me any questions and I will provide time for other people who might want to testify.

Ms. OAKAR. Senator, I just want to compliment you. Frankly, you made our job somewhat easier, because Minnesota had a law in place. We were able to point to Minnesota and point out that the sun is still shining, you know and somehow or another, you did not have this great problem.

Ms. BERGLIN. I always sort of like to facetiously remind people, as Congressman Sikorski will remember, we passed this bill and policy in days when we were deep in debt and then we implemented it and suddenly we have a surplus in our coffers.

Ms. OAKAR. Thank you very much and by the way, one of the bills that I introduced that has not passed, yet, does touch on the very thing that you recommended companies should be given some help in restructing their pay systems. We think that the EEOC ought to have the responsibility of educationing companies

Congressman, did you have anything?

Mr. SIKORSKI. No.

Thank you, once again.

Ms. BERGLIN. Thank you.

Ms. OAKAR. We have some people who want to speak in opposition to pay equity. The wonderful thing about our country that we are able to express ourselves openly about our differences.

I would like to have you come up as a panel in the interest of time; but, please remember that if you have more to say we would be happy to receive additional testimony.

We have Mary Jane Rachner, who is with a group called, Women for Reagan. of course this is appropriate, since the President is not for pay equity. Pay equity was not included in the Republican platform and the administration tried to kill the bill on the Senate side, so I think that it is important to hear this.

We will also hear from Nancy McGibbon who is with the Awareness Council, Dan Slater, with the Minnesota Citizens Legislative League, and Paul Ross, with the Free Thought Society.

Mr. SIKORSKI. And Marlene Reid.

Ms. OAKAR. I am sorry, and Marlene Reid, Women for Responsible Legislation.

We would be delighted to have you come up and present your views.

Mr. SIKORSKI. I think that they signed up in the order of Nancy McGibbon, Dan Slater, Paul Ross, Marlene Reid, and Mary Jane Rachner.

Ms. OAKAR. All right, why don't we take Nancy McGibbon, Dan Slater, and Paul Ross, and you three. Then we will take the remainder.

STATEMENT OF NANCY McGIBBON, AWARENESS COUNCIL

Ms. MCGIBBON. My name is Nancy McGibbon and I live in Minnetonka, and I am a member of the Awareness Council speaking for that group. I am a previous school board member and I have a degree in aeronautical engineering and I have served on the board of Planned Parenthood in Minneapolis and I have been fairly active in civic affairs and self-employed since 1960.

I have four children and a husband and I would like to make some comments first to the name of the bill which is pay equity and as I say, it makes a very unpopular bill to oppose but I am here to do that.

And I have some reasons for that I would like to point out. I also came in with a limp, if you notice, I have had 6 months with a broken hip which gave me the opportunity to watch you all perform on C Span. So I have seen the national hearings on this and I felt though that I had some very mixed blessings here.

So I will try to just highlight things, because I know what you have heard in testimony and I will try not to be repetitive with that and save time for some of my people who also want to speak to this.

But I guess that one of the points that I want to make is that it sounds so good and that I do not approve of it, and one of the reasons is that I feel for the same reasons that we passed bills for equal pay for equal work it is equally wrong to pass a bill and probably will be found unconstitutional, but pass a bill for equal pay for unequal work.

This is clearly in violation and destroys the free enterprise system, collective bargaining, and whatever happened to supply and demand?

I sat on advisory committees, and in fact, I followed Nina Rothchild as chairman of the Sex Bias Advisory Committee to the State board of education. We saw reports and I hope that you will find these and ask for these reports in Minnesota. You say that Minnesota is a model and is to be followed. Look into the money that has been spent in the public school systems and particularly in the vocational schools to at a time when we were cutting back vigorously in our educational programs, good old basics and the things that are needed so badly for excellence in education.

Now, I say, speaking from personal experience, it seems that you want to hear that. I graduated in 1948 and there was only one woman a year that graduated from the Institute of Technology of Minnesota at that time. I knew them all very well.

We all had job opportunities and we had no harassment and we had no discouragement. My husband happens to be a dentist and he was counseled out of being a dentist. Nobody ever tried to counsel me out of being an engineer. And I never was short of job offers, however, I did better self-employed, because I was then able also to have a family.

I will send you and include in your information an article in a Minneapolis paper about the Rockford Institute study which probably you have seen which suggests, is there a hidden agenda to the comparable worth issue?

Is it in fact, something that should be looked into on the basis that its end result would be to force all women to work and to force all children into day care centers.

And as a fringe benefit, we have mentioned day care centers and I guess that I would like to mention there, that I see the Government as a part of the problem on why we need day care centers, why day care is a problem?

Meaningless licensing has been a harassment and I am sure that I can give you documentation on this.

We have destroyed private day care centers. Now, we have got to turn to our Federal Government to solve this problem for us. There should be no problem with adequate child care. Look at all the welfare people. One could take care of kids, and one could work, there are some real natural solutions, very close under the surface for somebody who wanted to find some of those things.

The Government has caused the problem on child care and now they want to solve it for us by putting all children in Federal day care centers. I do not like that concept. The mayor of Detroit made a very interesting statement which I believe was mentioned on the floor, that if women as clerks or whatever the example that he gave are, dissatisfied with their pay as clerks and they like to make what a house painter makes, then the solution is that more women must paint houses.

I think that we are talking supply and demand here. We have talked something that worked very well in this country. And I really feel very badly about meddling further. We have done several things while we have meddled with our economy. One is to destroy volunteerism. We have made it a disgrace for a woman to come up here and say, I just stay home and take care of kids.

We have made it a disgrace for that and yet, we have tried vigorously in the schools to turn women around and all that we have

done is double the work force. There are a lot of people looking for jobs and are we proud of the fact that it takes two people to support a family and call that progress? I do not think so. To say that two people have to work to support a family and then send your family off to someone else to raise, I do not think is a sign of progress.

Ms. OAKAR. What bill says that two people have to work, I mean, is there anything in the legislation?

Ms. MCGIBBON. Pardon?

Ms. OAKAR. Can you name a bill that says that?

Ms. MCGIBBON. I do not think that is a relative question at all. I am talking about is the amount of dollars that is being willingly spent in lieu of education. For instance, we overlook absolutely everything in order to put the propaganda to send women to the work force at the cost of all other education.

For instance, I have a niece who is a graduate doctor, and if a counselor went to her and said, you know the suicide rate for doctors is much higher than that is for women, do you know that that counselor would probably be in big trouble, legally, for having said that because you have discouraged that woman from going into the medical field. I can document that.

Ms. OAKAR. Did you work as an engineer?

Ms. MCGIBBON. Yes, I did, and I can testify to the fact that this business of harassment, absolutely does not exist and never did. Women's interest are different from men and they are never going to succeed with turning women into men.

I would rather see them spend the money on something else. For instance, let me give you an example of how far we go in order to do this.

The only legal censorship in the schools now, is to count how many times mother occurs in a book and get it out of the library. That you can do. Or to get the Bible out, but this seems to transcend all things. My son in junior high school, in a most progressive Hopkins school district in the name of equal opportunity, was told that we cannot have all boys taking industrial arts. He was mandated to take two-thirds of the year in home ec and one-third in industrial arts. I think that we have gone too far.

I will let someone else speak and if you have any questions I will be happy to answer.

Ms. OAKAR. Thank you, very much.

Ms. MCGIBBON. Thank you for hearing this.

Ms. OAKAR. My pleasure, Mr. Slater.

STATEMENT OF DAN SLATER, MINNESOTA CITIZENS LEGISLATIVE LEAGUE

Mr. SLATER. Thank you.

My name is Dan Slater and I am here to speak for the Minnesota Citizens Legislative League and for myself. I would like to say that in view of the shortage of time, I would like to make a short statement and if it is all right, I would be willing to turn my time over to Mary Jane Rachner for the balance of whatever she might have.

Ms. OAKAR. Sure.

Mr. SLATER. I happen to be an electrician by trade and so I bring a point of view that is oriented from the construction trades and I have been in it all of my life and I think that the feeling that sums it up quite well would be something like we have here that comparable worth is absolutely contrary to the concept of equal pay for equal work.

And to equal employment opportunity in hiring pay and promotions, if truck drivers or plumbers earn less than secretaries and nurses, equal opportunity answer is for women to become truck drivers and plumbers. Which they have every right to do for the past 20 years.

We have women in our electrical union and they get the same pay and if the employer wants to hire them and thinks that they can cut the mustard, that is fine. And we are not against that, we are for that, but to say that secretaries and librarians must be paid the same as truck drivers and plumbers even though they do not do that kind of work, or take the risks that those jobs involve is a clear demand for equal pay for unequal work.

If women want the pay of truck drivers or maintenance men, they should do the hard physical work that those jobs require.

Comparable worth is absolutely contrary of the concept of private enterprise. It happens to be that we believe strongly in collective bargaining process and there are many in the trades that share my views, that they feel, that despite the protestations that this will not circumvent collective bargaining, it is my observation in the long run, that it will be very detrimental to true, honest, collective bargaining, because we will have to superimpose some type of a wage labor board to establish what these points are worth and while they may profess that it will be integrated into the collective bargaining process, it will in the long run, it seems to me, inevitably have to set aside true, realistic collective bargaining for the trades as well as for the professions and other types of unions.

Comparable worth, is absolutely contrary to the concept of private enterprise because it would require employers to pay more for women's jobs than the free market would pay.

No employer would do that unless he was under a court order to do so. And that is like Government wage control is the bottom line to comparable worth concept. Comparable worth is another gimmick to get the American people to accept more and more Federal control of our economy. And really we much prefer the collective bargaining process, the free enterprise approach, here in St. Paul we are studying the implementation as required under the Minnesota Legislature's act. It is significant that in the trade area there is an exception made. We are going to use the Association of General Contractors agreement as a continuing agreement for the basis of establishing the wages.

But there will be an attempt to integrate the two together and how this will be done, I know not. But I do know that it is going to do grave violence and there is one more thing in conclusion that I would like to say and that is we look at this only as an economic issue, and but look at the devastation that has occurred in Sweden where this is being implemented, where the actual statements of the Swedish Cabinet members of their objective is to create the working family as the desirable objective.

In other words, the woman is out of the home all through her lifetime. The children are raised as the previous speaker said, where the Government is the main force that will see that they are raised. Do we want this? Do we want to see the damage and do we want to experience this damage in terms of social and moral and spiritual loss at the same time that we are spending billions through the Department of Health, Education, and Welfare in an attempt to help our society, are we going to set in motion forces that will be far more counterproductive than the productive forces in the economic area here?

I think that those are things that have to be considered and there has been primarily it seems to me an emphasis on the economic point. I believe that strongly that equal pay for equal work but let me interject that equal pay for comparable worth, you are into an area of ambiguities that there is no end for.

So I strongly oppose the implementation or the passing of any type of act.

Ms. OAKAR. I am going to have to leave at 12:30.

The Chair respects your point of view and we welcome you to submit more for the record in writing if you would like, but I am going to have to go on to our other witnesses so that we can hear from them.

Mr. Ross.

STATEMENT OF PAUL ROSS, FREE THOUGHT SOCIETY

Mr. Ross. Good morning.

My name is Paul Elliott Ross and I am the chairman of the Free Thought Society, a locally based group of attorneys and law students interested in preserving the original freedoms envisioned in the Constitution.

And also the limited Republican form of government it proscribed. Specifically, we have in fact, as a group reviewed the Pay Equity Act, resolution 5029, and the testimony that has pertained to it and we have come to the belief as a group that its application to the Federal budget is duly alarming.

Ms. OAKAR. You know it is a study. It does not implement anything.

Mr. Ross. Yes.

Ms. OAKAR. Do you know the cost of the study? I just wanted to make sure that you have read it carefully.

Mr. Ross. Yes, if the concept envisioned under the study were actually implemented, it would be possibly budget busting, if we were to use the term.

However, the principle concern, I think, is our view over its constitutional ramifications. We believe that as a concept, comparable worth sets a dangerous precedent when it is applied to the private sector. I think that it is illustrative of the potential of this concept when you have had Congressman Sikorski here, asking of the nurses' representative the potential of case law application for the 1965 Equal Opportunity Act, to provide comparable worth case law here for private hospital nurses.

I think that the Congress should have a care then in establishing such a precedent. It can implement a bill based on any study re-

sulting from this that replies solely to Federal employees, based on its constitutional spending authority. It has the power to reschedule salaries, no doubt about it. But application to the private sector as envisioned by case law, by say, reversing standards using the Federal salary structure as the model, for what is equity.

Ms. OAKAR. Well that is not in the bill that I introduced.

Mr. ROSS. But that is a clear possibility for precedent as envisioned by the question that Sikorski asked.

Ms. OAKAR. It is, yes, and the laws are already in the books.

Mr. ROSS. In fact, that is what I would like to discuss, if I may.

Ms. OAKAR. You said that you and your attorney friends have read the bill and you are misrepresenting it. I just want to make sure that you have read it. I do not think that you have, have you, Paul?

Mr. ROSS. Yes; I have.

Ms. OAKAR. OK.

Mr. ROSS. What I am trying to tell you is the implications here.

Ms. OAKAR. I see, OK.

Mr. ROSS. And that is why I am suggesting that you be cognizant for the implications for precedent, because courts will be looking at this and they may in fact decide to apply this in EEOC actions. I think that is why you should really draw in proper strictures that clearly delineate that this is not applicable to private sector and that it does not impinge on free enterprise structuring of wage markets.

Specifically it has already been determined by the courts that job categories do not constitute suspect classifications, or anything equated with gender applications except on a case by case basis.

In fact, I draw your attention to the case of *Los Angeles Water & Power* v. *Manhart,* and in 435 U.S. 702, and that case by the Supreme Court determined that under the opinion of Justice Stevens, that practices which classify employees in terms of religion, race, or sex tend to preserve traditional assumptions about groups rather than thoughtful scrutiny of individuals. What this was with regard to an existing sex-based classification for insurance, and it was found to be unconstitutional.

I think that you are coming dangerously close, if the policy espoused in the research to be done here, actually were implemented, because that would be establishing a new form of gender classification that does not currently exist.

You do see male secretaries, you do see male nurses, you do see female doctors, you do see female engineers, you do see a broad interpenetration of what is being touted here as gender-based classifications to actually have legislation which equalizes pay by between job categories, would be a legislative acknowledgment of a gender-based classification. It would be saying that these categories are in fact, gender-dominated and you would be telling Johnny in the school that he cannot become a nurse. You would be telling Susy in that same school that——

Mr. SIKORSKI. Do you have any children?

Mr. ROSS. Not yet.

Mr. SIKORSKI. Well I think that society tells our kids a lot as they are raised and——

Mr. Ross. I guess that I must have struck home there since you are a little bit concerned.

Mr. SIKORSKI. Yes, I have a child a daughter and——

Mr. Ross. Yes, I have seen your commercials.

Mr. SIKORSKI. That is a concern of mine and I think of any American in terms of mobilizing all the talents that God has given us to make sure that our country and our economy is as strong as possible and not artificially intimidated. I do not think that my daughter or son, if I have one, is going to be reading any statute in the statute books to decide how he or she will pursue their career.

I think that your concern might be logically accurate in a very academic situation but really does not hold water in the real life of how children pursue careers.

Ms. OAKAR. Congressman, I am going to have to go on to the next witnesses because of my schedule.

Mr. SIKORSKI. I took more time than I should have.

Ms. OAKAR. But I am going to invite Paul to give me the analysis of the legislation that he and the other attorneys have done. The Chair welcomes that kind of scrutiny and would like to see it.

So I hope that you will submit that.

Our next witness is Marlene Reid who is with Women for Responsible Legislation.

Thank you for being here, Marlene.

STATEMENT OF MARLENE REID, WOMEN FOR RESPONSIBLE LEGISLATION

Ms. REID. Thank you.

For the record, I am Marlene Reid, State chairman of Women for Responsible Legislation.

I am just going to give you just a tiny bit of background. I am a wife and mother of six children and I have received a bachelor of science degree with a chemistry major back in the 1950's and I went into a nontraditional women's role. My husband pursued the more standard business major and when we both started to work out of college with the same number of years of formal education, I made more money than he did. So I think that it has always been that people who were willing to pursue the more difficult line of study and I submit that to get a chemistry major was much harder than my counterparts who were getting a bachelor of arts degree, because I had all of those hours of laboratory day after day after day.

Ms. OAKAR. As a double major in fine arts and science, I want to tell you that I think that what I did in fine arts was equally as difficult.

Ms. REID. OK, if you do not want to look at anything else but time, time allotment, every afternoon, 3 afternoons a week, were spent in laboratories, where my counterparts had that free time to study for their next class, they were not required to spend time in labs.

OK, I just want to say before we sound the merits of the Minnesota comparable work, too much, I just want to quote quickly out of a Minneapolis Star and Tribune article, on Tuesday, July 31, of this year, 1984.

It said, that:

Minnesota cities, school districts, and counties are worried that implementing the law on comparable worth, that requires comparable salaries for comparable jobs, by 1987, may invite lawsuits from employees who do not get raises. If the legislature was eager to protect us from Federal lawsuits there was a rush to judgment and now we are subject to State lawsuits, said Richard Cox, attorney for the Association of Minnesota Counties.

The law defines female job classifications as those in which 70 percent of positions are held by women. Male classifications are those in which 80 percent of the jobs are held by men. Cox and others said that it is unfair where the local government is required to evaluate all jobs, or just those that are dominated by women which is what was done for State government jobs. If the salaries for female dominated jobs are adjusted to match those for male dominated jobs, according to comparable worth, Cox said, that would create an inequity for the men and women in the balanced category. If they can demonstrate that their jobs are comparable to those that were given pay raises, he said, then they can be expected to file lawsuits.

And my point there is that we are getting into a big can of worms and we are submitting this whole issue to the courts and eventually to the Federal courts when it does become Federal wage control.

I want to read just briefly a couple of points from a conference on comparable worth that was sponsored by the equal pay for unequal work, sponsored by the legal forum educational and legal defense fund.

This was in 1983, held in Washington, DC.

Ms. OAKAR. You will be happy to know that Phyllis Schlafly founder of Eagle Forum was one of our witnesses in Washington.

Ms. REID. Yes, opposing comparable worth?

Ms. OAKAR. Right.

Ms. REID. And I have heard Judith Spense speak on the issue, she is an economist and Judith Spense said that she only knows of two other economists in the country who support comparable worth concept.

But now, pay equity, I just want to make this point, is figuratively used as a synonym for comparable worth by its advocates, however, pay equity can mean whatever anyone wants it to mean.

And does not necessarily mean a system of comparing the worth of men's and women's jobs. So I think that first of all, we should define our terms and I think that is an unfortunate title for the subject and matter.

The advocates of comparable worth argue that the earnings gap between men and women is caused by two factors which they call sex discrimination. First where the women are crowded into so-called women's jobs, and second the advocates argue that women's jobs are systematically undervalued and thus, are paid less than they are really worth.

We opponents point out that this discrimination hypothesis has never been proven. The studies cited by the advocates do not directly measure discrimination. And in addition, these studies have many shortcomings, the most obvious of which is that the studies leave out some factors which could explain all of the earnings gap.

We point out that the advocates usually ignore the dramatic effect which marriage has on labor force earnings of men versus women. We can cite studies which explain virtually all the earnings gap between unmarried men and women.

Ms. OAKAR. I do have one more witness and they are telling me that if I do not leave in the next few minutes, I am going to miss the plane.

Mr. SIKORSKI. Marlene why don't you just Xerox those sections and get them to us.

Ms. REID. OK, let me make about two real quick points.

Ms. OAKAR. Well it has to be fast, really.

Ms. REID. We feel that the comparable worth, like minimum wage laws would increase unemployment among the very group that it is intended to help. For instance, if you said that secretaries had to be paid where they were being paid $5 you had to raise that to $6, then all of a sudden many businesses could not afford that extra burden, therefore the businessmen, the employer, might turn around and turn to a private secretarial group like Kelly Girl Services or whatever, where they are only hiring secretaries so that they do not have to compare to any other field of work and therefore the Kelly Girls Services can pay less and the Employer then will turn to that kind of service rather than hire this person and so the women in the long run can be hurt because otherwise they would have been hired by the employer for what they were getting.

Ms. OAKAR. I appreciate your remarks and, in fairness to Mary Jane, I do want to give her the opportunity to conclude the hearing.

Mr. SIKORSKI. Let me say, Madam Chair, so that everyone understands clearly, the legislation that we have been talking about today, does not change the laws that already exist guaranteeing equal pay under the Equal Pay Act of 1963, and then title VII under the Civil Rights Act of 1964.

All this does is study the Federal system, just as Minnesota studied the Minnesota system. Just so that everyone understands that.

Ms. REID. I do not believe that there is any problem in understanding that. In the State of Minnesota, we were all after the fact, before we could testify here, that wheels have been rolling and information is coming in and we just do not want to be behind the fact, on this now, that all of a sudden it will be over and we have not even looked at it.

Mr. SIKORSKI. Just so that anyone who will be looking at the record will understand that fact as well. I do not mean to say that you do not understand it.

Ms. REID. My main thrust of my testimony was to say that it is going to hurt the very women that it was designed or supposed to help.

Ms. OAKAR. I understand what you are trying to say, thank you. Ms. Rachner, would you like to testify?

STATEMENT OF MARY JANE RACHNER, WOMEN FOR REAGAN

Ms. RACHNER. Thank you, very much, for managing to include me before you left.

Ms. OAKAR. Thank you for being here.

Ms. RACHNER. I am grateful for the opportunity to say something about principles rather than about this legislation in particular.

The principles of course, that you know that I am interested in as a chairman of Women for Reagan, are the principles of free

market and the principles of collective bargaining, principles of free enterprise, and the principles of individualism and of course, that is why I am opposed to the concept of comparable worth, but also because of my background in psychology. And, my background in psychology is what I would like to talk to Congressman Sikorski about because I would like to ask him a couple of questions that are related to my studies in psychology.

Ms. OAKAR. In conducting congressional hearings, we have the options of questioning the witnesses and I think that if you want to question him you have got to do it after the hearing.

Ms. RACHNER. But I do need to know if you people would like to adjust the average salary of blacks so that it is equal to the average salary of whites?

Do you not think that that would be the fair thing to do?

Ms. OAKAR. I think that if the average salary of whites and blacks and other minorities are unfair irrespective of what they do, who they are, then they ought to be adjusted.

We had one witness who testified that 10 percent of the adjustment had to do with men and I am assuming that a good percentage were white men who were paid unfairly as well.

We are talking about fairness.

Ms. RACHNER. Yes, but you are confusing two concepts when you use difference in average salary as evidence of unfairness; the basis used for comparison.

Now, if you are talking about comparison, the greatest comparable worth, the greatest worth, of any job in this country, is the worth of raising children, and I would say that the worth of Mrs. Sikorski's job of raising her daughter, comparable to the work of Congressman Sikorski in Congress, is greater, and I believe that it deserves more pay, if you are talking in terms of comparable quality.

Now, you cannot quantify quality. And if you pretend that a psychologist can devise a test which quantifies the comparable quality of two people's contributions to society, you have a basic premise that makes your whole enterprise false.

And when you use the word "equity," you are abusing the word "equity," just as liberals are abusing many, many words in our language now. They are busy causing problems that can only be solved by bigger government, higher taxes, and more work for attorneys, because so many of you are attorneys.

Ms. OAKAR. I am an educator by profession.

I want to thank you all for coming. We welcome more of your testimony. We would love to put it in the record and have all of the American people have access to this record.

And we are very, very grateful that you came. You do have, if you get this information to me in the next 10 days, that is when we start printing. In fact, Ms. Straggas would be delighted to give you a card.

Mary Jane, I understand that you are running against a very good friend of mine, Bruce Vento. I sit next to Bruce on the Banking Committee and I happen to think that he is a person of great quality. I am sure that you are very sincere in your efforts to run for office as well.

I want to thank Congressman Sikorski for having this hearing. We welcome everybody's testimony and it will add to our quest for fairness for all people in this country.

Thank you, very much.

[Whereupon, the hearing was adjourned at 12:30 p.m.]

[Additional materials follow:]

STATEMENT OF GLENNIS TER WISSCHA, FIELD REPRESENTATIVE, MINNESOTA SCHOOL EMPLOYEES ASSOCIATION, S.E.I.U., LOCAL 1980

My name is Glennis Ter Wissche. I am a Field Representative for the Minnesota School Employees Association (MSEA), S.E.I.U., Local 1980.

This testimony is submitted before you on behalf of H.R. 5092, "The Pay Equity Act of 1984."

The fact that we are here today, to give and hear testimony on Pay Equity, gives evidence that it is not an issue that will go away by being ignored.

The accomplishment of Pay Equity has wide-spread support across the country. Pay Equity, simply put, is the elimination of sex-based wage discrimination. Most of the women working outside the home in predominately female occupations are not paid a wage that is based on the value of the position. Today, in 1984, women still earn less than sixty cents for every dollar earned by men. On the national average, women with four years of college still earn less than men graduating from high school.

Equal pay for work of comparable value is only justice for discrimination that has continued since women entered the work force.

It has been argued that comparing jobs to determine their comparable value is like comparing apples and oranges. In other words, impossible. This is not true. While it is not an easy task, it can, and has been, done. With total participation of the employees, their Exclusive Representative and employers, the determination of Comparable Worth will have a much better chance of success by being both objective and acceptable—the two most important criteria for success. Objectivity can only be achieved through the continuing active participation of the employees working in the position and their Exclusive Representative. The final determinations on the relative worth of the jobs must not be the sole responsibility of those in management.

Can management responsible for the perpetuation of sex-based wage discrimination be totally objective in the ranking of positions to assure the necessary acceptability of the results?

Pay Equity is NOT a simple issue. There is a concerted effort among its opponents to remove the issue of Pay Equity from the jurisdiction of the courts. In the meantime, employers are discovering that elimination of the predominately male classifications, such as custodial, and predominately female classifications, such as food services, through sub-contracting takes away the comparison factor as well as reduces the cost of implementation. Employers are also proposing two-tier wage schedules which reduce the level of earnings for future employees. This not only creates new groups of poverty-level workers, it also creates the false image of overpaid male workers. These are only two of the creative means used to subvert successful Pay Equity. More will be used unless there are legal protections for the workers.

This is NOT theory. Investigations into sub-contracting by School Boards; for example, by custodial and cafeteria services, and employer proposals of two-tier wage schedules as remedies for sex-based wage discrimination, are running rampant in public education in the state of Minnesota. We MUST protect the rights of ALL workers.

The Minnesota School Employees Association, S.E.I.U., Local 1980, represents secretaries, aides, bus drivers, custodians and cafeteria workers in public education.

MSEA has been an active proponent of Pay Equity since MSEA's inception in January of 1980. We have successfully negotiated voluntary Joint Management/Labor Pay Equity studies before the passage of the Minnesota law requiring that they should be done.

Our intensive research and experience in this issue has taught us it is a mistake to consult only one or two unions on the language of the law when, at this stage in Minnesota, every public employee union is affected by the passage of the law.

The authors of such a law must have a knowledge of Pay Equity, its effects and the *Collective Bargaining Process*. Limiting unions to a meet and confer with the employer as the Minnesota law does, causes us to be impotent in protecting the rights of our members. This is especially appalling when the entire future earnings

of these people may be determined by the results of a biased and inaccurate study where they were not allowed total participation in the selection of the evaluation tool through the final analysis.

The Collective Bargaining Process is sacred. It cannot be bartered away in exchange for a passable law that looks productive in general and destroys in specifics.

The Pay Equity evaluation system used by the state of Minnesota to determine the extent of sex-based, wage discrimination amongst state employees is being counted as a good system to use. In reality, the completed study owes its perceived success not to the study itself; rather, the contributed monies from the state to achieve Pay Equity made the study a success. When the allotment is drained, the trouble will begin. From that point on, its success will depend on the Collective Bargaining Process.

Pay Equity is more than a philosophy against discrimination. Successful Pay Equity demands objective and acceptable systems to determine the relative worth of the jobs and total cooperation among unions, their members and the employers in developing the system to achieve the goals of Pay Equity.

Successful Pay Equity demands that there be protections for the workers. The elimination of sex-based wage discrimination is justice. Let's keep justice in the forefront as we continue to fight for its success.

Minneapolis Star and Tribune
Tuesday, July 31, 1984

Comparable worth raises concerns

While Gov. Rudy Perpich is touting Minnesota's comparable worth program to the nation's governors, every unit of government back home is trying to figure what it means and how to implement it.

Perpich today will argue to the National Governors' Association meeting in Nashville, Tenn., that it should adopt a resolution encouraging all states to adopt plans that would get the jump on courts that may otherwise order equal pay for women under the Civil Rights Act.

But Minnesota's cities, school districts and counties are worried that implementing the law that requires comparable salaries for comparable jobs by 1987 may invite lawsuits from employees who do not get raises.

"If the Legislature was eager to protect us from federal lawsuits, there was a rush to judgment. Now we are subject to state lawsuits," said Richard Cox, attorney for the Association of Minnesota Counties.

The law defines "female unbalanced" job classifications as those in which 70 percent of the positions are held by women; "male unbalanced" classifications as those in which 80 percent of the jobs are held by men; and "balanced" as those with any percentage less in each category.

Cox and others said it is unclear whether local government is required to evaluate all jobs, or just those that are dominated by women, which is what was done for state government jobs.

If the salaries for female-dominated jobs are adjusted to match those for male-dominated jobs according to comparable worth, Cox said, that will create an inequity for the men and women in the "balanced" category. If they can demonstrate that their jobs are comparable to those that were given pay raises, he said, then they can be expected to file lawsuits.

Neither the association nor Hennepin County has decided how far the state law requires them to go.

In Minneapolis, an advisory committee recommended Monday that all jobs in city government be reclassified and a new salary schedule applied — those covered by civil service and those that are not.

The city council is expected to address the issue this month.

Hennepin County officials are one step ahead of the city and are searching for the best system to evaluate jobs and apply the point system that will be used to determine which jobs are comparable and are entitled to the same pay.

The law requires that the evaluation be completed by October 1985. The county board will decide whether salaries will be adjusted for all jobs or for just those in classifications dominated by women.

Cox said the association of counties also is looking for a consultant that its members can hire, and is recommending that the study include all three job categories.

[Excerpts from the book "Equal Pay for Unequal Work," A summation of the Conference on Comparable Worth sponsored by the Eagle Forum Education and Legal Defense Fund, Washington, D.C. October 17-18, 1983.

Overview of the Conference Debate

by Judith Finn

Judith Finn served as conference coordinator of this Conference on Equal Pay for Comparable Worth and is chairman of Eagle Forum's Task Force on Comparable Worth. A public policy specialist, she has her M.A. in political science from Michigan State University. She has testified before committees of both Houses of Congress on her many areas of expertise including equal pay and sex discrimination in employment, the causes of the earnings gap, and Social Security. Her book, "The Treatment of Women Under Social Security," is the best source in print of reliable information on that subject.

The Conference on Comparable Worth, which presented the views of 19 persons with various kinds of expertise on this subject, articulated significant areas of agreement and of disagreement. We summarize these points here for the convenience of readers.

The areas of agreement between advocates and opponents of Comparable Worth include:

1. *Definition of Comparable Worth.* Although it is often said that there is no generally accepted definition of Comparable Worth, an operational definition which is widely accepted can be inferred from the debate. Comparable Worth is generally understood to mean a system of wage-setting whereby the employer determines how much to pay workers doing different work in different occupations by measuring the value or worth of each job. This is in contrast to a system which makes explicit use of market wages (*i.e.*, the prevailing wages paid by other employers in the same area for a particular occupation).

Comparable Worth is usually implemented by means of a "job evaluation system" which assigns numerical points to each job on the basis of that job's requirements for such factors as knowledge and skills, mental demands, accountability, and working conditions. However, an employer currently using such a system is not necessarily using the Comparable Worth concept. Most employers who now use a job evaluation system simply use it as a means of replicating market wages within the firm, in other words, to test the firm's wage scale against prevailing wages paid in the area by other employers.

"Pay equity" is frequently used as a synonym for Comparable Worth by its advocates. However, "pay equity" can mean whatever anyone wants it to mean, and does not necessarily mean a system of "comparing" the "worth" of "men's jobs" and "women's jobs." Comparable Worth advocate Dr. Barrett uses it to mean society's "social justice" obligation to pay wages adequate to support a family, at least at the minimum poverty level; and she argues for Comparable Worth as an alternative method of increasing the income of poor women who would otherwise be on welfare. Many Comparable Worth advocates shift back and forth between the two lines of argument. (Prior to the present generation, "pay equity" generally meant giving the job preference to the husband/father supporting a family.)

2. *Current legal status of Comparable Worth.* At present, employers are *not* required to set wages according to Comparable Worth. No Federal statute or regulation requires Comparable Worth. Neither the U.S. Supreme Court nor any Federal appeals court has held that Comparable Worth is required by Federal law. In 1983 a Federal district court in Washington State ruled in favor of Comparable Worth in a case involving Washington State employees, and that case is now on appeal.

A few states have recently passed legislation requiring that state employees' wages be set according to Comparable Worth criteria, but these laws do not require private employers to follow Comparable Worth. A number of states have Comparable Worth bills pending and/or have mandated studies on this subject. Only in Pennsylvania does pending legislation apply Comparable Worth to private employers. However, there seems to be general agreement that extension to the private sector is the next logical step and the ultimate goal of Comparable Worth advocates.

3. *No controversy about equal pay for equal work.* This has been Federal law since passage of the Equal Pay Act in 1963. Better enforcement of this Act will not eliminate or even reduce the earnings gap between men and women in the labor force. Equal pay for equal work is already nearly universal and the enforcement mechanism is functioning well.

The earnings gap between all men and all women is defined as the difference between the average wage paid to all women versus the average wage paid to all men. Both advocates and opponents agree that this gap exists, and that it is due in large part to the fact that women and men tend to work in different kinds of occupations.

The areas of disagreement between advocates and opponents of Comparable Worth include:

1. *The cause of the earnings gap between men and women.* Advocates of Comparable Worth argue that the earnings gap between men and women is caused by two factors, which they call "sex discrimination." First, women tend to be "crowded" into traditionally female jobs (such as clerical workers, nurses, teachers, and librarians) where the oversupply tends to depress wages. They argue that this crowding is due in large part to the exclusion of women from the higher-paying, traditionally male occupations. Secondly, advocates argue that "women's jobs" are systematically undervalued and thus paid less than they are really worth.

Opponents of Comparable Worth point out that this discrimination hypothesis has never been proven. The studies cited by the advocates do not directly measure discrimination. In addition, these studies have many shortcomings, the most obvious of which is that the studies leave out some factors which could explain all of the earnings gap

Opponents point out that the advocates usually ignore the dramatic effect which marriage has on labor force earnings of men versus women. Opponents cite studies which explain virtually all the earnings gap between unmarried men and women. These data lead opponents to argue that the unexplained differences in earnings between married men versus married women are probably due to the fact that marriage leads to specialization whereby women

pursue paid employment less aggressively (because of home responsibilities), whereas men pursue paid employment more aggressively (because they are expected to be breadwinners and they have wives as helpers).

Opponents also reject the charge that women crowd into "women's jobs" because of widespread exclusion elsewhere. They say that the alleged exclusion is not documented, and furthermore is hard to believe in view of the progress women have made over the past decade in many professions including medicine, law, engineering, and real estate. Finally, opponents argue that the forces of competition tend to wipe out discrimination, so it is unscholarly to assume that the wage gap is due to discrimination unless it is clearly documented.

2. *The costs of implementing Comparable Worth.* Advocates argue that the cost to employers will not be excessive and, anyway, "there should be no price tag on discrimination." Advocates point out that costs have not been excessive in the few states which have recently legislated Comparable Worth for state employees. In Minnesota, for example, they say the cost is estimated to be $24 million over two years.

Opponents do not agree that Comparable Worth is a just or equitable system and, furthermore, they are more concerned about costs—to taxpayers, consumers, and employers. Opponents cite estimates that the 1983 Comparable Worth court decision in Washington State will cost the taxpayers at least $500 million (and later estimates are in the $1 billion range).

Opponents argue that there are also indirect costs which may be even more important, though difficult to measure. These indirect costs are expected because Comparable Worth is implemented with a job evaluation system which is relatively rigid and inflexible compared with the way wages are set now. This means, opponents say, that incentives will be distorted by Comparable Worth procedures. Merit and individual effort will count for less, whereas paper credentials will count for more. Productivity will suffer if good workers cannot be rewarded and if all workers are induced to take actions to get their jobs reclassified as more complex rather than trying to simplify their jobs.

Another cost concern is that Comparable Worth may be the wrong solution, even if job segregation is due to "crowding," that is, even if "women's jobs," such as clerical and nursing, are paid

low wages because women are blocked from entering other jobs. Opponents reject the "crowding" hypothesis and they point out that, if "crowding" were the cause of low wages and low productivity in women's job's, raising wages would cause even more persons to seek work in these already overcrowded jobs, thereby lowering productivity further. In such a situation the Comparable Worth remedy would not only be costly but would exacerbate the alleged problem. It would be better to reduce the barriers excluding women from non-traditional jobs. This would raise the average level of labor productivity in the economy, permitting a rise in women's wages without a corresponding rise in unit labor costs.

3. *The effect of Comparable Worth on women.* Advocates argue that Comparable Worth will have a significant impact on women's wages, especially those in traditionally female jobs (*e.g.*, clerical) which are now undervalued by employers. Advocates point out that job evaluation studies in state governments consistently find that the jobs staffed predominantly by women are almost always paid less than would be indicated by the "points" which are assigned by the job evaluation for skill, effort, responsibility and working conditions.

Opponents doubt that women would be better off under Comparable Worth. First, they reiterate that total wages would be less if productivity is hurt by the procedures used to implement Comparable Worth. Secondly, they point out that raising the wages in "women's jobs" would have positive effects only for those workers who keep their jobs. They maintain that Comparable Worth, like minimum wage laws, would increase unemployment among the very group it is intended to help. For example, if Comparable Worth raises secretaries' wages in a given firm from $5.00 to $6.00 per hour, it is like setting a $6.00 minimum wage for secretaries. Most employers can and do find ways to get by with fewer such workers if the cost goes up.

Some employers might contract out work to avoid the higher costs associated with Comparable Worth. For example, a manufacturer might be required by Comparable Worth to increase the wages of his secretaries. However, he could avoid this increased cost by contracting with a secretarial service firm which could continue to pay the lower wages indicated by supply and demand in the marketplace because it hires only secretaries and therefore would not be affected by Comparable Worth job evaluations

within its firm.

Finally, opponents argue that Comparable Worth would be especially harmful to married men (and their wives) with average or below average educational credentials because these men hold most of the high-paid blue-collar jobs. Actually, this is the target group which the Comparable Worth advocates believe are overpaid when the job evaluation study *compares* men's wages to the *worth* of "women's jobs." Opponents argue that, if Comparable Worth is presented as a system of "pay equity," it is necessary to consider the women who will be harmed by Comparable Worth because they will lose their jobs altogether, or because their husbands' wages will be reduced.

4. *Can intrinsic job worth be measured?* Comparable Worth advocates say that they know enough to proceed with job evaluation procedures. They admit they aren't perfect, but claim they are in wide use now and can be improved. They assert that employers measure job worth every day. Some advocates argue that it is not even necessary to give up on the marketplace as a source of information about job worth because a National Academy of Sciences study suggests that scientists may soon be able to perfect procedures which identify what market wages would be in the absence of discrimination.

Opponents say that, once market wages are rejected as a measure of job worth, there is no scientific or objective way to identify job worth. The notion that one should even try to pay according to a job's intrinsic value implies that there is some intrinsic value of labor which is independent of the effects of supply and demand. They say this is simply incorrect, and is widely recognized as incorrect by economists and others who understand the operation of labor markets.

Indeed, it is no coincidence that the few economists who advocate Comparable Worth do not purport to be able to measure intrinsic job worth. Rather, they support Comparable Worth because they think (1) that there are imperfections in the labor market, and (2) that they *can* develop ways to identify the wage structure which would exist in a free market. Opponents disagree that economists have the ability to improve on the marketplace, but this disagreement is not about intrinsic job worth.

5. *The usefulness of job evaluation studies.* Comparable Worth advocates admit that job evaluation studies are not perfect, but

argue that they can be a key tool in establishing Comparable Worth. Advocates assert that job evaluation studies have been used to justify the status quo in the past and argue that, if they are reformed to eliminate what they think is sex bias, then they can be used to determine job worth. Advocates argue that one of the ways such job evaluation studies have been biased in the past is that they have given too much weight to factors on which the male jobs score high, such as heavy lifting and dangerous working conditions.

Opponents argue that job evaluation studies are useful to help find out what the market wage would be for jobs which are specialized to a particular firm, but that even for this purpose job evaluation studies are of limited value. These studies are not scientific, involve subjective judgments, and often produce different results depending upon who conducts the studies. Once the market is rejected as a guide to the job evaluation studies, there is no way to decide what weights should be given to the different compensable factors. Ultimately, courts would have to decide.

Some opponents even reject the notion that underlies the job evaluation studies, namely, that the employer should determine wages for a job without regard to the productivity of the particular incumbent. By rating jobs rather than people, job evaluations are said to dilute the incentive to be a productive worker and instead to encourage the accumulation of factors which look important on the job evaluation itself. While merit pay is not inconsistent with increased reliance on job evaluations, a conflict is obvious.

Most small companies and many large employers do not use job evaluation procedures at the present time. Presumably these firms find that informal methods work better. Actions to establish the Comparable Worth doctrine might end up forcing these firms to develop job evaluation procedures, and thus a more bureaucratic method of determining compensation in the firm.

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